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TITLE 3—THE PRESIDENT EXECUTIVE ORDER 9912

ESTABLISHING THE INTERDEPARTMENTAL COMMITTEE ON SCIENTIFIC RESEARCH AND DEVELOPMENT

By virtue of the authority vested in me as President of the United States by the Constitution and statutes, and as Commander in Chief, and in order to further the most effective administration of Federal scientific research and development activities, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. There is hereby established the Interdepartmental Committee on Scientific Research and Development, hereinafter referred to as the Committee. The head of each of the following agencies and of such other agencies as the President may hereafter determine (and in the case of a commission, board, or committee, the chairman thereof) shall designate an officer or employee of his agency as a member of the Committee, namely, the Departments of Agriculture, Interior, Commerce, Army, Navy, and Air Force, the National Military Establishment, the Federal Security Agency, the Atomic Energy Commission, the National Advisory Committee for Aeronautics, the Veterans Administration, and the Smithsonian Institution.

2. The Chairman of the Committee shall be designated annually by the President. The Chairman may from time to time establish subcommittees, which may include as members persons not employed by the Federal Government, or for limited periods of time representatives of agencies not designated as members of the Committee, which shall conduct and report upon specific studies as directed by the Committee.

3. The duties of the Committee shall be to:

(a) Recommend steps to make the research and development programs of the Federal Government most effective in the promotion of the national welfare.

(b) Study or propose studies and recommend changes in administrative policies and procedures, including personnel policies, designed to increase the efficiency of the Federal research and development program.

(c) Study and report upon current policies and Federal administrative practices relating to Federal support for

research, such as grants and contracts for basic research.

(d) Obtain the advice of persons not employed by the Federal Government with respect to matters of concern to the Committee.

(e) Encourage collaboration among Federal agencies engaged in related scientific research and development.

(f) Propose means by which information relating to the status and results of scientific research and development undertaken or supported by Federal agencies can be most effectively disseminated.

(g) Perform such other duties as shall be prescribed from time to time by the President.

4. The reports and recommendations of the Committee shall be submitted to the several departments and agencies or to the President as may be appropriate.

5. Federal agencies, to the extent permitted by law, are requested to furnish the Committee assistance and such information relating to their affairs as it may require.

HARRY S. TRUMAN

THE WHITE HOUSE,
December 24, 1947.

[P. R. Doc. 47-11422; Filed, Dec. 26, 1947;
11:37 a. m.]

EXECUTIVE ORDER 9913

TERMINATING THE OFFICE OF SCIENTIFIC RESEARCH AND DEVELOPMENT AND PRO- VIDING FOR THE COMPLETION OF ITS LIQUIDATION

By virtue of the authority vested in me by Title I of the First Supplemental Surplus Appropriation Rescission Act, 1946 (60 Stat. 13), and the Supplemental Appropriation Act, 1948 (Public Law 271, 80th Congress) and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Office of Scientific Research and Development in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 8807 of June 28, 1941, is hereby terminated.

2. All personnel, property, contracts, records, and funds of the Office of Scientific Research and Development, and all functions, powers, duties, rights,

(Continued on p. 8801)

CONTENTS

THE PRESIDENT

Executive Orders	Page
Interdepartmental Committee on Scientific Research and Development, establishment.....	8799
Office of Scientific Research and Development, termination and provision for completion of its liquidation.....	8799

EXECUTIVE AGENCIES

Agriculture Department

See also Farm Credit Administration.

Proposed rule making:

Irish potatoes, handling in southeastern states.....	8838
Poisons, economic; exemptions under Federal Insecticide, Fungicide, and Rodenticide Act.....	8844
Spinach leaves, fresh; U. S. standards.....	8843

Rules and regulations:

Limitation of shipments:	
Grapefruit in Arizona, Imperial County, Calif., and that part of Riverside County, Calif., south and east of San Geronio Pass.....	8806
California and Arizona:	
Lemons.....	8806
Oranges.....	8806
Milk handling:	
Paducah, Ky., marketing area.....	8808
Quad Cities marketing area.....	8805

Alien Property, Office of

Notices:

Vesting orders, etc.:	
Bahnmiller, Christina.....	8860
Balzer, Otto, and Louise Balzer.....	8860
Becker, Ida M.....	8860
Bishop, Laura Bultman, et al.....	8860
Blumenthal, Bernard, et al.....	8859
Brox, Anton.....	8859
Burke, Clemens.....	8861
Chiyodagumi Ltd.....	8861
Consolidated Amusement Co., Ltd.....	8862
Diedrich and Anna Burgdorff.....	8861
Gruenebaum - Oppenheim, Laura.....	8861



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CONTENTS—Continued

Alien Property, Office of—Con.	Page
Notices—Continued	
Vesting orders, etc.—Continued	
Kopf, Ida	8862
Sato, George T.	8859

RULES AND REGULATIONS

CONTENTS—Continued

Civil Service Commission	Page
Rules and regulations:	
Organization and official records; Examining and Placement Division and Retirement Division	8801
Coast Guard	
Notices:	
Approval and termination of approval of equipment	8844
Rules and regulations:	
Boundary lines of inland waters (Corr.)	8818
Customs Bureau	
Rules and regulations:	
Air commerce; redesignation of Ogdensburg Municipal Airport, Ogdensburg, N. Y., as airport of entry without time limit	8813
Articles conditionally free, subject to reduced rate, etc.; theatrical scenery, properties, and effects, motion-picture films, and commercial travelers' samples of domestic or foreign origin	8813
Vessel measurement; certification of spaces deductible from gross tonnage	8812
Farm Credit Administration	
Rules and regulations:	
Loan interest rates	8804
Federal Housing Administration	
Rules and regulations:	
War rental housing insurance	8813
Superseding of part	8817
Federal Power Commission	
Notices:	
Hearings, etc.:	
Community Public Service Co.	8852
El Paso Natural Gas Co.	8852
Home Gas Co. et al.	8853
Hope Natural Gas Co.	8852
Niagara Falls Power Co.	8853
Internal Revenue Bureau	
Rules and regulations:	
Income tax, taxable years beginning after Dec. 31, 1941; figure used in determining reserve and other policy liability credit for life insurance companies	8817
Interstate Commerce Commission	
Notices:	
Potatoes, reconsignment at Philadelphia, Pa.	8853
Rules and regulations:	
Car service:	
Loaded cars, delivery to Ah-napee	8838
Lumber, restrictions on reconsignment	8837
Refrigerator car agent	8837
Stock cars for petroleum products containers	8838
Freight rate tariffs, schedules and classifications; postponement of effective date of tariff circular rule	8838

CONTENTS—Continued

Labor Department	Page
See also Wage and Hour Division.	
Rules and regulations:	
Occupations hazardous for employment of minors between 16 and 18, or detrimental to their health or well being; logging occupations in operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill	8818
Navy Department	
Rules and regulations:	
Procuring activities; naval procurement regulations	8819
Reclamation Bureau	
Notices:	
Availability of water for public and private lands and opening of public lands to entry: Gila Project, Ariz., Yuma Mesa Division	8845
Riverton Irrigation Project, Wyo.	8850
Tucumcari Irrigation Project, N. Mex.; annual water rental charges	8850
Rules and regulations:	
Entry on public lands and water rentals, applications; Gila Project, Ariz., Yuma Mesa Division and Riverton Irrigation Project, Wyo.	8837
Water charges, annual; Tucumcari Irrigation Project, N. Mex.	8837
Scientific Research and Development, Office of	
Rules and regulations:	
Organization; termination and provision for completion of liquidation	8818
Securities and Exchange Commission	
Notices:	
Hearings, etc.:	
Bell, John J.	8854
Cambridge Electric Light Co. et al.	8858
Federal Water and Gas Corp. et al.	8855
Middle West Corp. et al.	8858
Minnesota Securities Corp.	8854
Narragansett Electric Co.	8859
South Carolina Electric & Gas Co. et al.	8857
Social Security Administration	
Rules and regulations:	
Federal old-age and survivors insurance; recomputation of benefits	8813
Wage and Hour Division	
Notices:	
Handicapped clients in sheltered workshops, issuance of special employment certificates	8851

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

Title 3—The President	Page
Chapter II—Executive orders:	
8807 ¹	8799
9218 ¹	8799
9219 ¹	8799
9389 ¹	8799
9791 ¹	8799
9912.....	8799
9913.....	8799
Title 5—Administrative Personnel	
Chapter I—Civil Service Commission:	
Part 01—Organization and official records of the Commission.....	8801
Title 6—Agricultural Credit	
Chapter I—Farm Credit Administration, Department of Agriculture:	
Part 70—Loan interest rates and security.....	8804
Title 7—Agriculture	
Chapter I—Production and Marketing Administration (Standards, Inspections, and Marketing Practices):	
Part 51—Fruits, vegetables and other products (grading, certification and standards) (proposed).....	8843
Part 162—Regulations for the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act (proposed).....	8844
Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders):	
Proposed rule making.....	8838
Part 944—Milk in Quad Cities marketing area.....	8805
Part 953—Lemons grown in California and Arizona.....	8806
Part 955—Grapefruit grown in Arizona; Imperial County, Calif.; and that part of Riverside County, Calif., situated south and east of the San Geronio Pass.....	8806
Part 966—Oranges grown in California and Arizona.....	8806
Part 977—Milk in Paducah, Ky., marketing area.....	8808
Title 19—Customs Duties	
Chapter I—Bureau of Customs, Department of the Treasury:	
Part 2—Measurement of vessels.....	8812
Part 6—Air commerce regulations.....	8813
Part 10—Articles conditionally free, subject to a reduced rate, etc.....	8813
Title 20—Employees' Benefits	
Chapter III—Social Security Administration (Old-Age and Survivors' Insurance), Federal Security Agency:	
Part 403—Federal old-age and survivors insurance.....	8813

¹ E. O. 9913.

CODIFICATION GUIDE—Con.

Title 24—Housing Credit	Page
Chapter V—Federal Housing Administration:	
Part 580—Administrative rules for war rental housing insurance under section 608 of the National Housing Act.....	8813
Part 581—Administrative rules for war rental housing insurance under section 608 of the National Housing Act for mortgages exceeding \$200,000.....	8817
Title 26—Internal Revenue	
Chapter I—Bureau of Internal Revenue, Department of the Treasury:	
Part 29—Income tax; taxable years beginning after December 31, 1941.....	8817
Title 29—Labor	
Chapter IV—Child Labor and Youth Employment Branch, Department of Labor:	
Part 422—Occupations particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well being.....	8818
Title 32—National Defense	
Chapter XVII—Office of Scientific Research and Development:	
Part 1900—Organization.....	8818
Title 33—Navigation and Navigable Waters	
Chapter III—Coast Guard: Inspection and Navigation:	
Part 302—Boundary lines of inland waters.....	8818
Title 34—Navy	
Chapter I—Department of the Navy:	
Part 30—Procuring activities.....	8819
Part 31—Navy procurement regulation.....	8819
Title 43—Public Lands: Interior	
Chapter II—Bureau of Reclamation, Department of the Interior:	
Part 401—Applications for entry on public lands and water rentals.....	8837
Part 402—Annual water charges.....	8837
Title 49—Transportation and Railroads	
Chapter I—Interstate Commerce Commission:	
Part 95—Car service (4 documents).....	8837, 8838
Part 187—Freight rate tariffs, schedules and classifications.....	8838

privileges, and authority of the said Office and of its Director, are hereby transferred to the National Military Establishment for the purpose of completing the liquidation of all the affairs of the Office of Scientific Research and Development.

3. Such further measures and dispositions as may be determined by the Director of the Bureau of the Budget to be necessary to effectuate the transfers pro-

vided for in this order shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective at the close of business on December 31, 1947.

HARRY S. TRUMAN

THE WHITE HOUSE,
December 26, 1947.

[F. R. Doc. 47-11419; Filed, Dec. 26, 1947;
10:46 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 01—ORGANIZATION AND OFFICIAL RECORDS OF THE COMMISSION

EXAMINING AND PLACEMENT DIVISION AND RETIREMENT DIVISION

1. Section 01.9 (12 F. R. 7157) is amended to read as follows:

§ 01.9 *Examining and Placement Division*—(a) *Organization*. Responsibility for the functions connected with recruitment, examining and certification for positions in the departmental service in Washington, D. C., and the immediate vicinity and for certain field positions, when public announcement to that effect is made, is vested in the Chief of the Examining and Placement Division and his staff. The Chief of the Division is also responsible for recommending to the Commission necessary changes in policies and practices regarding recruitment, examining, and certification.

The operating sections of the division, with their responsibilities and functions, are as follows:

(1) *The Examining Services Section*. This section prepares and distributes publicity for examination announcements issued by the central office, receives and reviews applications for such examinations (except those announced on behalf of regional offices or Boards of U. S. Civil Service Examiners in the field), arranges for holding written examinations, rates examinations (except certain technical examinations), prepares and maintains lists of eligibles for all positions in the departmental service in Washington, D. C., and the immediate vicinity (except those handled by Committees of Expert Examiners), and for certain field positions when public announcement is made to that effect, issues certificates of eligibles therefrom, and audits the agencies' selections from such certificates. It maintains an information office for public inquiries regarding civil service examinations and answers other questions regarding Federal employment. In addition, the section arranges for examinations for admission to the United States Military and Naval Academies, when requested, as a courtesy to Members of Congress to aid them in making selections for appointments thereto, and administers examinations for the foreign service of the State Department.

(2) *The Physical Science and Postal Section.* With respect to positions in the engineering and allied fields, the physics, chemistry and related occupational areas, and in the industrial and skilled trades, this section has the following responsibilities:

(i) Surveys agencies for anticipated needs for employees in the occupational fields with which the section is concerned.

(ii) Plans recruiting programs in advance of needs.

(iii) Prepares standards for examination for all positions in its field in the Federal service and for positions under Schedules A and B where necessary. (Schedule A is a list of positions to which departments and agencies may make appointments without competitive examinations; Schedule B is a list of positions to which departments and agencies may make appointments as a result of non-competitive examination.)

(iv) Passes on proposed appointments for Schedules A and B positions in its occupational fields, if necessary, and advises for qualifications for transfer, promotion, and reinstatement.

(v) In certain technical assembled examinations, determines whether experience or education requirements are met; in unassembled technical examinations, rates the applicants on the basis of predetermined standards and rating schedules.

(vi) Develops standards, rating schedules, etc. to be used by agency Committees of Expert Examiners for examinations in which one agency (or a small group of agencies) is concerned. Reviews qualifications of committee members, instructs them in committee examining functions, supervises rating procedures, and certifies committee registers for use.

(vii) Cooperates with the Commissioners of the District of Columbia in observing the agreement regarding filling of positions in the District of Columbia government.

(viii) Determines qualifications necessary to fill positions for which no register is appropriate and prepares a certificate of eligibles for such positions.

(ix) Acts or recommends action on agency objections or passing over of veterans, based on qualifications.

The Postal Unit of this section performs all the functions of the examination program from the announcement of the examination to the audit of the certificate.

(3) *The Administrative and Social Science Section.* This section has responsibility for positions in the social sciences, accounting, law enforcement, and allied occupations and the various phases of administrative management and the clerical occupations, and in addition, for hearing examiner positions, positions in the police and fire departments of the District of Columbia, and in other departments of the District of Columbia under the Civil Service Act, identical with those outlined under subparagraphs (2) (i)-(ix) of this paragraph.

(b) *Delegations of authority—(1) To the division.* With respect to the func-

tions set forth above, the Examining and Placement Division has over-all responsibility for the development of plans and programs and for the establishment of procedures and standards applying both to regional offices (including Boards of U. S. Civil Service Examiners) and the central office (including Committees of Expert Examiners). It has direct operating responsibility for the recruiting, examining, and placement programs in the departmental service in Washington, D. C., except insofar as any functions connected with these activities have been delegated to Committees of Expert Examiners as explained below, and for certain field positions when public announcement is made to that effect.

(2) *By the division—(i) To regional offices.* Development of assembled examination material for field examinations under the jurisdiction of the regional offices or Boards of U. S. Civil Service Examiners, in the absence of appropriate standardized material for examinations; preparation of examining standards (specifications) for field positions in the absence of approved specifications; modification of examination specifications by agreement with representatives of the agency (in the absence of a specific prohibition).

(ii) *To departments and agencies.* Certain phases of the review of applications involving acceptability from the standpoint of legal requirements for Federal service, for example, proof of citizenship, proof that the requirement limiting the number of members of the same family who may be employed in the Federal service has been met, proof of military service and honorable discharge in the case of five-point war veterans; audit of declaration of appointees; determination of experience, training or educational qualifications for transfer, reinstatement, or promotions (under standards and with limitations prescribed by the Commission); where a committee-type examination is involved, maintenance of the registers of eligibles, certification of eligibles, and audit of reports on certificates (exclusive of the authority to act on objections or to determine the sufficiency of reasons for passing over veterans).

(iii) *To Committees of Expert Examiners.* Where a committee-type examination is involved, rating of hand-scored assembled or unassembled examination papers; securing of corroborative information regarding experience; acting on original appeals on ratings other than the written test in machine-scored examinations; preparing registers (subject to Commission approval); considering objections offered by the appointing officer, and making final decision that objections may not be sustained.

(iv) *To the District of Columbia Government by agreement between the District of Columbia Commissioners and the Civil Service Commission.* Authority to effect appointments to lower grade positions in the District of Columbia Government in the absence of local eligibles on the Commission's registers (without audit of qualifications by the Commission).

(c) *Method of securing and source of information.* (1) For positions under

the jurisdiction of the central office, whether Commission-controlled or committee-type, questions may be addressed in writing to the United States Civil Service Commission, Washington 25, D. C. Inquirers may call in person at the Information Office maintained by the Examining and Placement Division at 7th and F Streets, N. W. Such inquiries may concern civil service examinations; that is, for what positions applicants may apply, how and where to file applications, what qualifications are required, etc.; requirements for veterans' preference, citizenship and age; ratings; employment opportunities in the Federal service during the periods preceding the establishment of appropriate registers for the majority of positions; types of written examinations, methods of rating, contents and form of questions, etc. The information available to the general public is restricted to that published in the examination announcement and the accompanying sample questions, if any, so that the confidential nature of the examination materials may be preserved.

(2) Complaints should be in writing and should be addressed to the United States Civil Service Commission, Washington 25, D. C. Examples of types of complaints:

(i) Complaints regarding publicity given, admission to or conduct of examinations announced by the central office.

(ii) Complaints with regard to discrimination because of race, color, or religious or political affiliations in connection with central office examinations.

(iii) During the period in which agencies may be specifically delegated authority to handle recruiting, examining and placement for positions under their jurisdiction, in the absence of appropriately qualified displaced career employees and pending establishment of a register appropriate to the particular position, complaints with regard to agency noncompliance with the policy and procedures established by the Commission for agency guidance, so far as positions in the departmental service are concerned.

(iv) Complaints of veterans with regard to agency action in passing over their names for positions in the departmental service. Such complaints may be presented by the veteran or his authorized agent in writing, addressed to the United States Civil Service Commission, Washington 25, D. C. The Commission's action is limited to the authority granted by the Veterans' Preference Act of 1944 to present to the veteran or his authorized representative a copy of the agency's reasons for passing over his name and the Commission's recommendation to the agency with respect to the sufficiency of the reasons.

(3) Appeals from ratings assigned as a result of examination are handled originally in the section that assigned the rating. Appeals in writing from Commission-controlled examinations for positions in the departmental service, and for certain field positions for which the examination has been issued by the Commission's central office (identified by the name of the United States Civil Service Commission, Washington, D. C., as the issuing agency on the notice of rating

(CSC Form 4008 or equivalent form) should be addressed to the United States Civil Service Commission, Washington 25, D. C.

2. Section 01.12 (a) (12 F. R. 7159) is amended to read as follows:

§ 01.12 *Retirement Division*—(a) *Organization*. The Retirement Division is charged with responsibility for interpreting and administering the Civil Service Retirement Act of May 22, 1920 (41 Stat. 614), as amended (5 U. S. C. 691-738), the Canal Zone Retirement Act of March 2, 1931 (46 Stat. 1471), as amended (48 U. S. C. 1371), and the Alaska Railroad Retirement Act of June 29, 1936 (49 Stat. 2017), as amended (5 U. S. C. 745). Jurisdiction over the administration of the act of May 29, 1944 (58 Stat. 257), is also vested in the division. This act provides for the payment of annuities to United States citizen employees (or to their unmarried widows under prescribed conditions) who served on the Isthmus of Panama during the construction period of the Panama Canal from May 4, 1904, to March 31, 1914, inclusive, who were not included in the recognition and the benefits accorded by the act of March 4, 1915 (38 Stat. 1190).

CROSS REFERENCE: For regulations relative to retirement, see Part 29 of this chapter.

The operating sections of the division are as follows:

(1) *Claims Section*. This section adjudicates claims for annuities under the Civil Service Retirement Act, the Canal Zone Retirement Act, and the Alaska Railroad Retirement Act, on age, optional and disability retirements, and discontinued service; determines whether legal and medical title has been established; determines the amount payable and the date payments are to begin; and develops and appraises all evidence, documents, and records required to substantiate the actions taken. It adjudicates claims for gratuity benefits under the Panama Canal Construction Annuity Act. It advises employees and prospective annuitants on their annuitable rights and obligations, maintains a record of all annuitants retired on disability, and orders the annual medical examinations as required.

(2) *Service Credit Section*. This section examines service credit applications and makes formal decisions with respect to the service credits to which present or former employees are entitled under the retirement laws and the amounts which must be paid in order to obtain title to annuity or to secure full annuity for such periods of service. It answers correspondence relating to the processing of service credit claims and voluntary contributions. It adjudicates claims filed by the beneficiaries, legal representatives, or next of kin of deceased employees or annuitants for the accrued annuity, the unexpended balance, or the accumulated deductions in the retirement funds. It adjudicates claims submitted in behalf of former employees who are incompetent, for accumulated deductions to their credit in the retirement funds. It examines the designation of beneficiary forms for completeness and compliance

with regulations and instructions. It conducts correspondence with respect to death claims and designation of beneficiary forms and maintains the files of designation of beneficiary forms. It prepares certifications of information contained in designation of beneficiary forms for use by the General Accounting Office in the administration of the act of December 21, 1944 (58 Stat. 845).

(3) *Refund Section*. This section adjudicates refund claims filed by former employees for the refund of deductions made from their salaries and to their credit in the retirement fund; determines the legality of such claims and the amount payable; develops and appraises the evidence, documents, and records required to substantiate the actions taken.

(4) *Correspondence Section*. This section conducts correspondence with present and former Government employees or their representatives with respect to refund rights and claims. It answers correspondence of a general nature not relating to the processing of annuity, service credit, voluntary contributions, or death claims.

(5) *Fiscal Section*. This section prepares schedules and vouchers covering payments on all retirement claims for use by the Disbursing Office of the Treasury in the preparation of checks and for use by the General Accounting Office in the audit of claim payments. It certifies all disbursements made from the retirement funds; maintains the administrative accounting controls for the retirement and disability funds; prepares the periodic financial statements for use by the officials of the division, the Board of Actuaries, and the Commission in the administration of the retirement acts and for submission to the Congress in the Annual Reports and Budget Estimates; receives and records cash, check, or money order remittances of voluntary deposits and issues receipts thereon; deposits remittances to the appropriate accounts in the Treasury of the United States; accepts and records payments from employees covering the purchase of service credits, or redeposits of amounts withdrawn or overpayments, and issues receipts thereon; deposits remittances in the Treasury of the United States to the credit of the proper retirement fund; maintains the individual annuity award accounts; maintains the individual retirement accounts (Form 2806) on all separated employees.

(6) *Agency Accounting Section*. This section conducts studies of the procedures used and practices followed by agencies in the maintenance of individual retirement accounts (Form 2806) and submits reports and recommendations for improvements whenever deemed necessary. It makes periodical inspections to the extent necessary to determine whether the retirement records in the agencies are maintained currently and in accordance with laws, regulations, and instructions; and makes periodical reports to the Commission on the status of retirement records in each agency. It develops training material for use by agencies in training new employees on the maintenance of individual retirement accounts and in the preparation of retirement applica-

tions and forms; maintains liaison with agencies, giving advice and instructions to officials and employees in the agencies who are assigned to and are responsible for the agency's retirement work, and advice on the procedures for the submission of applications, claims, account records, reports, and forms to the Commission; and renders technical and legal advice with respect to the Retirement Act and regulations.

(7) *Accounting Systems and Reports Analysis Section*. This section conducts studies of the over-all control accounts maintained by the division in connection with the administration of the retirement system to determine their sufficiency; recommends such changes and improvements in the retirement accounting system and practices as are considered necessary to protect the employees covered by the system, the Government, and the Commissioners who serve as trustees of the retirement funds; and directs the installation of such changes. It studies the financial statements and reports now prepared to determine the adequacy of the accounts and reports and the effectiveness of the protection thereby afforded to the Commission and to present and prospective annuitants. It secures clearance with the General Accounting Office of all suggested new systems or proposed revisions of existing accounting methods and procedures and conducts conferences with representatives of agencies, the General Accounting Office, and other interested groups for the purpose of assisting in the installation of retirement accounting systems and the development of improvements in the procedures followed in the agencies and in the division.

(8) *Congressional Services Section*. This section furnishes information to Members of Congress with respect to rights and benefits of their constituents on telephonic request. It furnishes data by telephone on the status of individual claims to Members of Congress in those cases where inquiry has been received by them from claimants for retirement benefits. It furnishes former and present employees with information regarding their rights and benefits, status of their claims, and procedures or instructions to be followed in presenting their claims.

(9) *Office of the Legal Adviser*. This office serves in an advisory capacity to the staff officials of the division with respect to the analysis of legal aspects of proposed changes in retirement laws and regulations and makes specific recommendations with respect thereto. It analyses retirement and related laws to interpret the intent of Congress and decisions of the Comptroller General and of the Attorney General for the purpose of advising the Commission and its staff officials, employing agencies and their officers and employees, and representatives of employee organizations. It renders opinions and decisions on questions requiring the application of provisions of the retirement and related laws and administrative rulings; prepares cases for submission to the Board of Appeals and Review, to the Attorney General, or to the Comptroller General; col-

laborates with the Department of Justice in the preparation and trial of suits arising under the retirement laws; prepares drafts of bills and reports of the Commission on proposed legislation concerning retirement, for the use in consideration of Congressional Committees; drafts rules and regulations with respect to the administration of the retirement laws, for promulgation by the Commission.

(10) *Office of the Actuary.* This office conducts actuarial studies, periodic valuations of retirement funds, and longevity investigations of annuitants. It conducts studies to determine relation of service and contributions to benefits at the different ages of retirement; confers with the Board of Actuaries for the purpose of presenting to the Board members new developments, proposals, reports, and data, and for the purpose of securing their advice and consultation with respect to such reports and proposals; makes actuarial studies and recommends improvements and simplification in retirement systems and policies; prepares the annual retirement reports; prepares special interest tables, and similar types of aids to facilitate the speedy and economical performance of retirement activities.

(11) *Procedures and Control Section.* This section conducts surveys of and studies existing procedures, regulations, policies, and methods followed in the division, and prepares process charts and reports analyzing them and recommending changes designed to improve operations and reduce costs. It assembles and analyzes management control data on the operations of the division, and recommends ways or methods of correcting or adjusting procedures to eliminate or correct bad situations before they become a problem; studies and recommends changes in policies, regulations, or laws to conform to new developments or requirements and to changing patterns or circumstances; establishes controls which will indicate when corrective actions are needed with respect to receipts, productions, backlogs, personnel assignments, delays, or unsatisfactory conditions generally; installs changes as approved by the division officials or the Commission and follows through to assure compliance with authorized instructions, policies, laws, regulations, and procedures.

(12) *Personnel Section.* This section develops programs and provides the leadership to get them into operation, for full utilization of personnel; administration of the efficiency-rating system; selection, placement and promotion of personnel; handling of the work assignment program; handling of employee relations and employee counseling; handling of reductions in force programs; administration of leave regulations and instructions. It prepares personnel forms and supporting documents for submission to the Director of Personnel to effect personnel appointments, changes, and separations; prepares job descriptions and recommends grade allocations for positions in the division and presents necessary explanatory material and information as required to justify recommendations; initiates and conducts conferences with operating officials to explain new programs

and the methods to be followed in putting them into effect.

(13) *Miscellaneous Services Section.* This section makes a continuous study of forms and form letters in use in the division with a view to the elimination of obsolete and unnecessary forms, and the simplification and consolidation of remaining forms and form letters. It procures supplies and equipment for the division, and prepares the periodical inventory reports; studies space assignments, requirements, and utilization to insure the most effective allocation; reports on work conditions, sufficiency of lighting, compliance with fire regulations, and acceptability of appearance of the building occupied by the division.

(14) *Budget and Reports Section.* This section compiles the statistical statements, trend charts, and justifications for the division's annual and supplemental budget estimates. It prepares the summaries and analyses of work reports, calling attention to increases or decreases in work receipts, work performance, work on hand, and unit costs and to repeated instances of non-compliance with established quantity work standards. It recommends revision of work report forms when it is found that they do not satisfactorily provide the work control data essential for management purposes. It develops and maintains cost data and cost records on all significant activities of the division.

(15) *Mail and Files Section.* This section receives and distributes all incoming mail. It dispatches outgoing mail. It maintains the General Index Records and the closed file on all annuity claims, death claims, refund claims, and service credit applications adjudicated, and furnishes records and information as requested from these files. It furnishes the general messenger service for the division.

(Sec. 2, 22 Stat. 403, 50 Stat. 533; 5 U. S. C. 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 47-11345; Filed, Dec. 26, 1947; 8:47 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration, Department of Agriculture

Subchapter F—Banks for Cooperatives

[Farm Credit Administration Order No. 470]

PART 70—LOAN INTEREST RATES AND SECURITY

INTEREST RATE ON LOANS

Section 70.90, 70.90-50 and 70.90-51 (12 F. R. 7799) of Title 6 of the Code of Federal Regulations, are hereby amended to read as follows:

§ 70.90 *Interest rate on continental loans for financing operations.* Except as provided in this section with respect to the Berkeley, Columbia, St. Louis, New Orleans, and Spokane Banks for Cooperatives, the rate of interest on all loans,

other than upon the security of commodities, made on and after February 24, 1939, by any district bank for cooperatives, for the purposes specified in section 7 (a) (1) of the Agricultural Marketing Act, as amended (sec. 7, 46 Stat. 14; 12 U. S. C. 1141e), shall be 2½ per centum per annum. The rate of interest on all such loans made on or after September 15, 1947, by the Berkeley Bank for Cooperatives and by the Columbia Bank for Cooperatives, and on and after December 1, 1947, by the St. Louis Bank for Cooperatives and by the New Orleans Bank for Cooperatives, and on and after February 1, 1948, by the Spokane Bank for Cooperatives shall be 2¾ per centum per annum.

§ 70.90-50 *Interest rate on continental commodity loans.* Except as specified in § 70.90-51, and except as provided in this section with respect to the Berkeley, Columbia, St. Louis, New Orleans, and Spokane Banks for Cooperatives, the rate of interest on all loans made upon the security of commodities on and after February 24, 1939, by any district bank for cooperatives, for the purposes specified in section 7 (a) (1) of the Agricultural Marketing Act, as amended (sec. 7, 46 Stat. 14; 12 U. S. C. 1141e), shall be 1½ per centum per annum. The rate of interest on all such loans made on or after March 1, 1947, by the Berkeley Bank for Cooperatives, and on and after September 15, 1947, by the Columbia Bank for Cooperatives, and on and after December 1, 1947, by the St. Louis Bank for Cooperatives and by the New Orleans Bank for Cooperatives, and on and after February 1, 1948, by the Spokane Bank for Cooperatives shall be 1¾ per centum per annum.

§ 70.90-51 *Interest rate on continental loans and loans made in Puerto Rico secured by Commodity Credit Corporation loan documents.* Except as provided in this section with respect to the Berkeley, Columbia, St. Louis, New Orleans, and Spokane Banks for Cooperatives and with respect to such loans made in Puerto Rico by the Baltimore Bank for Cooperatives, the rate of interest on loans made on and after June 30, 1947, by any district bank for cooperatives, upon the security of approved Commodity Credit Corporation loan documents, shall be 1½ per centum per annum. The rate of interest on all such loans made on and after September 15, 1947, by the Berkeley and Columbia Banks for Cooperatives, and on and after December 1, 1947, by the St. Louis and New Orleans Bank for Cooperatives, and on and after February 1, 1948, by the Spokane Bank for Cooperatives shall be 1¾ per centum per annum. The rate of interest on such loans made on and after October 15, 1947, in Puerto Rico by the Baltimore Bank for Cooperatives shall be 2 per centum per annum.

(Sec. 8, 46 Stat. 14, as amended; 12 U. S. C. 1141f)

[SEAL]

I. W. DUGGAN,
Governor.

[F. R. Doc. 47-11364; Filed, Dec. 26, 1947; 8:55 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

PART 944—MILK IN THE QUAD CITIES MARKETING AREA

MISCELLANEOUS AMENDMENTS

§ 944.0 Findings and determinations—
(a) Findings upon the basis of the hearing record. Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq.; 12 F. R. 1159, 4904), a public hearing was held upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Quad Cities marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof it is hereby found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions of said order, as amended and as hereby further amended, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held; and

(3) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in this order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid order and the findings made in connection with the issuance of each of the previously issued amendments thereto; and all of said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings set forth herein.

(b) Additional findings. It is necessary to make effective promptly the present amendments to the order to reflect current marketing conditions and to insure the production of an adequate supply of milk. Any delay beyond January 1, 1948, in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Quad Cities marketing area, and therefore it is imprac-

ticable, unnecessary and contrary to the public interest to delay the effective date of this order for 30 days after its publication (See Section 4 (c) Administrative Procedure Act, Public Law 404, 79th Congress, 60 Stat. 237).

(c) Determinations. It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping the milk covered by this order, as amended and as hereby further amended, which is marketed within the Quad Cities marketing area) refused or failed to sign the proposed marketing agreement regulating the handling of milk in the Quad Cities area, and it is hereby further determined that:

(1) The refusal or failure of handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the Quad Cities marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (July 1947), were engaged in the production of milk for sale in the Quad Cities marketing area.

Order relative to handling. It is therefore ordered that from and after the effective date hereof the handling of milk in the Quad Cities marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete paragraph (i) of § 944.1.

2. Delete from subparagraph (2) of paragraph (c) of § 944.5 the phrase, "base milk and the total delivery of milk in excess of base", so that the subparagraph will read as follows: "(2) the total delivery of milk with the average butterfat test thereof."

3. Add to paragraph (a) of § 944.7 the following: "In the case of handlers who receive from producers both Grade A milk and non-Grade A milk, separate computations shall be made. For the purposes of these computations Grade A milk shall be allocated to the highest use classifications of net pooled milk, and non-Grade A milk to the lowest use classifications."

4. Delete paragraph (b) of § 944.7 and substitute therefor the following:

(b) Computation of uniform price. For each delivery period the market administrator shall compute the uniform prices per hundredweight for Grade A milk and non-Grade A milk received from producers separately as follows:

(1) Combine into separate totals the values of Grade A Milk and non-Grade A milk computed pursuant to paragraph (a) of this section for all handlers who made the reports pursuant to paragraph (a) of § 944.5 and who made the payments pursuant to § 944.8.

(2) Add to the amounts computed in paragraph (a) of this section the cash

balances on hand in the producer-settlement fund less the total amount of contingent obligations to handlers pursuant to paragraph (g) of § 944.8. In computing the first uniform prices under this amendment the market administrator shall pro rate the balance on hand in the producer-settlement fund between Grade A and non-Grade A milk.

(3) Divide the resulting amounts by the total hundredweight of Grade A milk and non-Grade A milk, respectively, received from producers and represented by the values included in subparagraph (1) of this paragraph.

(4) Subtract not less than 4 cents nor more than 5 cents from the amounts per hundredweight computed pursuant to subparagraph (3) of this paragraph. The resulting figures shall be the uniform prices for Grade A milk and non-Grade A milk, respectively, received from producers.

5. In paragraph (c) of § 944.7 delete the phrase "of base milk, of the excess price" so that the paragraph will read as follows:

(c) Announcement of prices. On or before the 10th day after the end of each delivery period the market administrator shall notify all handlers and make public announcement of the computations pursuant to paragraph (b) of this section, of the uniform price per hundredweight and of the Grade A premium computed pursuant to paragraph (b) of this section, of the Class I, Class II, and Class III, and Class IV prices computed pursuant to § 944.4, and of the butterfat differential computed pursuant to § 944.8 (c).

6. Delete subparagraph (1) of paragraph (a) of § 944.8 and substitute therefor the following:

(1) To each producer for milk which was not caused to be delivered to such handler by a cooperative association, on or before the 15th day after the end of the delivery period during which such milk was received at not less than the uniform price computed pursuant to paragraph (b) of § 944.7, for Grade A or non-Grade A milk, whichever is applicable.

7. Delete subparagraph (2) of paragraph (a) of § 944.8.

8. Delete subparagraphs (1), (2), and (3) of paragraph (c) of § 944.8 and substitute therefor the following: "the amount computed by adding 20 percent to the average price per pound of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture, and dividing the resulting sum by 10."

9. Delete § 944.9 in its entirety.

(48 Stat. 31, 670, 675, 49 Stat. 750, 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 22d day of December 1947, to be effective on and after the 1st day of January 1948.

[SEAL]

CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-11366; Filed, Dec. 26, 1947; 8:47 a. m.]

RULES AND REGULATIONS

[Lemon Reg. 254]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.361 *Lemon Regulation 254—(a) Findings.* (1) Pursuant to the marketing agreement and Order No. 53 (7 CFR, Cum. Supp., 953.1 et seq.), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the preliminary notice and public rule making procedure requirements and the 30-day effective date requirement of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., December 28, 1947, and ending at 12:01 a. m., P. s. t., January 4, 1948, is hereby fixed at 175 carloads, or an equivalent quantity.

(2) The prorated base of each handler who has made application therefor, as provided in the said marketing agreement and order, is hereby fixed in accordance with the prorated base schedule which is attached to Lemon Regulation 253 (12 F. R. 8672) and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," and "prorate base" shall have the same meaning as is given to each such term in the said marketing agreement and order (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 23d day of December 1947.

[SEAL]

C. F. KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 47-11391; Filed, Dec. 26, 1947; 8:50 a. m.]

[Grapefruit Reg. 50]

PART 955—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIFORNIA; AND IN THAT PART OF RIVERSIDE COUNTY, CALIFORNIA, SITUATED SOUTH AND EAST OF THE SAN GORGONIO PASS

LIMITATION OF SHIPMENTS

§ 955.311 *Grapefruit Regulation 50—(a) Findings.* (1) Pursuant to the marketing agreement and Order No. 55 (7 CFR, Cum. Supp., 955.1 et seq.) regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation of the Administrative Committee established under the said marketing agreement and the said order, and upon other available information, it is hereby found that the limitation of shipments of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the preliminary notice and public rule making procedure requirements and the 30-day effective date requirement of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., December 28, 1947, and ending at 12:01 a. m., P. s. t., January 25, 1948, no handler shall ship:

(i) Any grapefruit grown in the State of Arizona; in Imperial County, California; or in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, which grade U. S. No. 2 (as such grade is defined in the revised United States Standards for Grapefruit (California and Arizona), 12 F. R. 1975) unless such grapefruit are fairly well colored and are free from damage (a) caused by dryness or mushy condition, (b) caused by scars which are very deep, (c) caused by scars which are very rough or very dark and aggregate more than one-half of an inch in diameter, and (d) caused by scars which are dark, rough, or deep and aggregate more than three-fourths of an inch in diameter;

(ii) Any container of grapefruit, grown as aforesaid, which grades U. S. Combination Grade (as such term is defined in the aforesaid revised United States Standards) unless at least forty percent (40%), by count, of the grapefruit in such container meet the requirements of the U. S. No. 1 Grade (as such grade is defined in the aforesaid revised United States Standards) and the remainder of the grapefruit meets all the requirements specified in subdivision (i) of this subparagraph:

(iii) Any grapefruit, grown as aforesaid, which grade U. S. No. 3 or lower than U. S. No. 3 grade (as such grades are defined in the aforesaid revised United States Standards); or

(iv) From the State of California or the State of Arizona (a) to any point outside thereof in the United States, any grapefruit, grown as aforesaid, which are of a size smaller than $3\frac{1}{16}$ inches in diameter, or (b) to any point in Canada, any such grapefruit which are of a size smaller than $3\frac{1}{16}$ inches in diameter ("diameter" in each case to be measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit), except that a tolerance of 5 percent, by count, of grapefruit smaller than such minimum sizes shall be permitted which tolerances shall be applied in accordance with the provisions for the application of tolerances, specified in the said revised United States Standards: *Provided*, That in determining the percentage of grapefruit in any lot which are smaller than $3\frac{1}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size $4\frac{1}{16}$ inches in diameter and smaller; and in determining the percentage of grapefruit in any lot which are smaller than $3\frac{1}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size $3\frac{1}{16}$ inches in diameter and smaller.

(2) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said marketing agreement and order; and the terms "fairly well colored," "damage," "dryness or mushy condition," "scars," "very deep," "very rough," "very dark," "dark," "rough," and "deep" shall each have the same meaning as set forth in the said revised United States Standards. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 23d day of December 1947.

[SEAL]

C. F. KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 47-11390; Filed, Dec. 26, 1947; 8:50 a. m.]

[Orange Reg. 210]

PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 966.356 *Orange Regulation 210—(a) Findings.* (1) Pursuant to the provisions of Order No. 66 (7 CFR, Cum. Supp., 966.1 et seq.) regulating the handling of oranges grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Orange Administrative

Committee, established under the said order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the preliminary notice and public rule making procedure requirements and the 30-day effective date requirement of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess., 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of oranges grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., December 28, 1947, and ending at 12:01 a. m., P. s. t., January 4, 1948, is hereby fixed as follows:

(i) *Valencia oranges.* Prorate Districts Nos. 1, 2 and 3, no movement.

(ii) *Oranges other than Valencia oranges.* (a) Prorate District No. 1, 600 carloads; (b) Prorate District No. 2, 200 carloads; and (c) Prorate District No. 3, 35 carloads.

(2) The prorate base of each handler who has made application therefor, as provided in the said order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handler," "handler," "carloads," and "prorate base" shall have the same meaning as is given to each such term in the said order; and "Prorate District No. 1," "Prorate District No. 2," and "Prorate District No. 3" shall have the same meaning as is given to each such term in § 966.107 of the rules and regulations (11 F. R. 10258) issued pursuant to said order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 23d day of December 1947.

[SEAL] C. F. KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

[12:01 a. m. December 28, 1947 to 12:01 a. m. January 4, 1948]

ALL ORANGES OTHER THAN VALENCIA ORANGES

Prorate District No. 1

Handler	Prorate base (percent)
Total	100.0000
A. F. G. Lindsay	2.7053
A. F. G. Porterville	2.1629
A. F. G. Sides	.7189
Ivanhoe Cooperative	.5086
Doffmeyer, W. Todd & Son	.5007
Elderwood Citrus Association	.8670
Exeter Citrus Association	2.8713

No. 252—2

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 1—Continued

Handler	Prorate base (percent)
Exeter Orange Growers Association	1.2323
Exeter Orchards Association	1.3349
Hillside Packing Association, The	1.5943
Ivanhoe Mutual Orange Association	1.0137
Klink Citrus Association	3.9391
Lemon Cove Association	1.5152
Lindsay Citrus Growers Association	2.4784
Lindsay Cooperative Citrus Association	1.3148
Lindsay District Orange Co.	1.5297
Lindsay Fruit Association	1.9845
Lindsay Orange Growers Association	1.1556
Naranjo Packing House Co.	.8457
Orange Cove Citrus Association	3.1985
Orange Cove Orange Growers Association	2.4447
Orange Packing Co.	1.3546
Orosi Foothill Citrus Association	1.3508
Paloma Citrus Fruit Association	.9920
Pogue Packing House, J. E.	.6260
Rocky Hill Citrus Association	1.5531
Sanger Citrus Association	2.8733
Sequoia Citrus Association	.9560
Stark Packing Corp.	2.2707
Visalia Citrus Association	.9171
Waddell & Son	2.1524
Butte County Citrus Association, Inc.	.5651
Mills Orchard Co., James	.4291
Orland Orange Growers Association, Inc.	.6296
Andrews Edison Groves	.4638
Baird-Neece Corp.	1.7809
Beattie Association, Agnes M.	.4869
Grand View Heights Citrus Association	2.3057
Mangolia Citrus Association, The	2.1911
Porterville Citrus Association, The	1.3283
Richgrove-Jasmine Citrus Association	1.4788
Sandlands Fruit Co.	1.2428
Strathmore Cooperative Association	1.8367
Strathmore District Orange Association	1.7791
Strathmore Fruit Growers Association	1.1508
Strathmore Packing House Co.	1.8980
Sunflower Packing Association	2.2569
Sunland Packing House Co.	2.1911
Terra Bella Citrus Association	1.4775
Tule River Citrus Association	1.1210
Vandalla Packing Association	.8111
Kroells Bros., Ltd.	1.3631
Lindsay Mutual Groves	1.7966
Martin Ranch	1.0948
Woodlake Packing House	1.7666
Anderson, R. M. Packing Co.	.9661
Baker Bros.	.1278
Calif. Citrus Groves, Inc., Ltd.	1.9441
Caswell, John	.0136
Chess Company, Meyer W.	1.1556
Edison Groves Co.	.6902
Evans Bros. Packing Co.	.9222
Exeter Groves Packing Co.	.7325
Furr, N. C.	.2069
Ghianda Ranch Association	.0179
Harding & Leggett	1.5756
Justman-Frankenthal Co.	.1340
Lo Bue Bros.	.9986
Marks, W. & M.	.4272
Paramount Citrus Association	.1544
Raymond Bros.	.1181
R. M. C. Porterville	2.1582
Reimers, Don H.	.2086
Rooke Packing Co., B. G.	1.5158
Toy, Chin	.0272
Webb Packing Co., Inc.	.7651
Wollenman Packing Co.	.8327
Woodlake Heights Packing Corp.	.4465
Zaninovich Bros.	.4536

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 2

Handler	Prorate base (percent)
Total	100.0000
A. F. G. Alta Loma	.1506
A. F. G. Corona	.4089
A. F. G. Fullerton	.0539
A. F. G. Orange	.0541
A. F. G. Riverside	.5782
Hazeltine Packing Co.	.1062
Placentia Pioneer Valley Growers Association	.0696
Signal Fruit Association	1.0393
Azusa Citrus Association	.9693
Azusa Orange Co., Incorporated	.1271
Damerel-Allison Co.	1.1196
Glendora Mutual Orange Association	.5200
Irwindale Citrus Association	.3533
Puente Mutual Citrus Association	.0578
Valencia Heights Orchard Association	.2561
Glendora Citrus Association	.8823
Glendora Heights Orange & Lemon Growers Association	.1512
Gold Buckle Association	3.3781
La Verne Orange Association	4.3244
Anaheim Citrus Fruit Association	.0763
Anaheim Valencia Orange Association	.0128
Eadington Fruit Co., Incorporated	.2727
Fullerton Mutual Orange Association	.1885
La Habra Citrus Association	.1376
Orange County Valencia Association	.0271
Orangethorpe Citrus Association	.0244
Placentia Cooperative Orange Association	.0452
Yorba Linda Citrus Association, The	.0900
Citrus Fruit Growers	.8239
Cucamonga Citrus Association	.6692
Etiwanda Citrus Fruit Association	.2291
Mountain View Fruit Association	.1616
Old Baldy Citrus Association	.4383
Rialto Heights Orange Growers	.4352
Upland Citrus Association	2.0702
Upland Heights Orange Association	1.0484
Consolidated Orange Growers	.0300
Frances Citrus Association	.0083
Garden Grove Citrus Association	.0295
Goldenwest Citrus Association, The	.1116
Olive Heights Citrus Association	.0392
Santa Ana-Tustin Mutual Citrus Association	.0208
Santiago Orange Growers Association	.1488
Tustin Hills Citrus Association	.0299
Villa Park Orchards Association, The	.0211
Bradford Brothers, Inc.	.2394
Placentia Mutual Orange Association	.1870
Placentia Orange Growers Association	.1547
Call Ranch	.6816
Corona Citrus Association	.8446
Jameson Co.	.3232
Orange Heights Orange Association	1.1272
Crafton Orange Growers Association	1.5521
E. Highlands Citrus Association	.5022
Fontana Citrus Association	.5200
Highland Fruit Growers Association	.5949
Redlands Heights Groves	.9514
Redlands Orangedale Association	1.1377
Break & Son, Allen	.2222
Bryn Mawr Fruit Growers Association	1.1157
Krinard Packing Co.	1.8522
Mission Citrus Association	.7734

RULES AND REGULATIONS

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—
continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Redlands Cooperative Fruit Association	1.6507
Redlands Orange Growers Association	1.1211
Redlands Select Groves	.5014
Rialto Citrus Association	.5550
Rialto Orange Co.	.2867
Southern Citrus Association	.9888
United Citrus Growers	.6954
Zillen Citrus Co.	.9533
Andrews Bros. of California	.7284
Arlington Heights Citrus Co.	.6785
Brown Estate, L. V. W.	1.7265
Gavilan Citrus Association	1.6006
Hemet Mutual Groves	.3331
Highbrook Fruit Association	.6048
McDermont Fruit Co.	1.8447
Monte Vista Citrus Association	1.1776
National Orange Co.	.8337
Riverside Heights Orange Growers Association	1.3642
Sierra Vista Packing Association	.7338
Victoria Avenue Citrus Association	2.5966
Claremont Citrus Association	1.2923
College Heights Orange & Lemon Association	1.0836
El Camino Citrus Association	.4989
Indian Hill Citrus Association	1.2513
Pomona Fruit Growers Exchange	1.9668
Walnut Fruit Growers Association	.3917
West Ontario Citrus Association	1.5438
El Cajon Valley Citrus Association	.2740
Escondido Orange Association	.5260
San Dimas Orange Growers Association	.8430
Covina Citrus Association	1.4138
Covina Orange Growers Association	.5253
Duarte-Monrovia Fruit Exchange	.4702
Ball & Tweedy Association	.1427
Canoga Citrus Association	.0615
N. Whittier Heights Citrus Association	.1323
San Fernando Fruit Growers Association	.3213
San Fernando Heights Orange Association	.2901
Sierra Madre-Lamanda Citrus Association	.1753
Camarillo Citrus Association	.0086
Fillmore Citrus Association	1.2786
Ojai Orange Association	.9728
Piru Citrus Association	1.1194
Santa Paula Orange Association	.1125
Tapo Citrus Association	.0063
E. Whittier Citrus Association	.0143
El Ranchito Citrus Association	.0601
Rivera Citrus Association	.0457
Whittier Citrus Association	.1502
Whittier Select Citrus Association	.0414
Anaheim Coop. Orange Association	.0586
Bryn Mawr Mutual Orange Association	.4964
Chula Vista Mutual Lemon Association	.1569
Escondido Coop. Citrus Association	.0999
Euclid Avenue Orange Association	1.9636
Foothill Citrus Union, Incorporated	.1062
Fullerton Cooperative Orange Association	.0454
Garden Grove Orange Cooperative Incorporated	.0258
Glendora Cooperative Citrus Association	.0727
Golden Orange Groves, Incorporated	.4738
Highland Mutual Groves, Incorporated	.4741
Index Mutual Association	.0038
La Verne Cooperative Citrus Association	2.6252
Mentone Heights Association	.8959

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—
continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Olive Hillside Groves	0.0324
Orange Cooperative Citrus Association	.0413
Redlands Foothill Groves	2.0964
Redlands Mutual Orange Association	1.0393
Riverside Citrus Association	.4328
Ventura County Orange and Lemon Association	.1911
Whittier Mutual Orange and Lemon Association	.0371
Babij Juice Corp. of California	.4449
Banks Fruit Co.	.3056
Cherokee Citrus Co., Inc.	1.2613
Chess Company, Meyer W.	.3681
Evans Brothers Packing Co.	.9905
Gold Banner Association	2.0328
Granada Packing House	.8012
Hill, Fred A.	.7161
Inland Fruit Dealers	.4356
Orange Belt Fruit Distributors	1.7350
Panno Fruit Co., Carlo	.1858
Placentia Orchards Co.	.0727
San Antonio Orchard Co.	1.3999
Snyder & Sons Co., W. A.	.6001
Torn Ranch	.0582
Verity & Sons Co., R. H.	.0829
Wall, E. T.	1.4839
Western Fruit Growers, Inc., Redlands	3.1315
Yorba Orange Growers Association	.0533

Prorate District No. 3

Total	100.0000
Allen-Young Citrus Packing Co.	2.0378
Consolidated Citrus Growers	7.1352
McKellips Mutual Citrus Growers, Inc.	7.4192
McKellips Phoenix Citrus Co., Inc., C. H.	9.7924
Phoenix Citrus Packing Co.	3.9242
Arizona Citrus Growers	19.6020
Bumstead, Dale	.0000
Chandler Heights Citrus Growers	2.7619
Desert Citrus Growers Co., Inc.	4.4841
Mesa Citrus Growers	15.4253
Yuma Mesa Fruit Growers Association	.0000
Arizona Citrus Products Co.	3.3147
Libbey Fruit Packing Co.	3.8854
Pioneer Fruit Co.	4.7141
Tempe Citrus Co.	1.8033
Commercial Citrus Packing Co.	1.2750
Dhuyvetter Bros.	.8918
Ishikawa, Paul	.2498
Leppla-Pratt Product Distributors, Inc.	7.4678
Macchiaroli Fruit Co., James	1.3391
Morris Bros. Fruit Co.	.2660
Orange Belt Fruit Distributors	.1830
Potato House, The	.6700
Valley Citrus Packing Co.	1.3679

[F. R. Doc. 47-11401; Filed, Dec. 26, 1947;
8:45 a. m.]

PART 977—MILK IN THE PADUCAH, KENTUCKY, MARKETING AREA

Sec.	
977.0	Findings and determinations.
977.1	Definitions.
977.2	Market administrator.
977.3	Reports, records, and facilities.
977.4	Classification of milk.
977.5	Minimum prices.
977.6	Applicability of provisions.
977.7	Determination of uniform price to producers.

Sec.

977.8	Payments for milk.
977.9	Expense of administration.
977.10	Marketing services.
977.11	Effective time.
977.12	Suspension or termination.
977.13	Agents.
977.14	Separability of provisions.

AUTHORITY: §§ 977.0 to 977.14, inclusive, issued under 48 Stat. 31, 670, 675, 49 Stat. 750, 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 103, Reorg. Plan 1 of 1947, 12 F. R. 4534.

§ 977.0 Findings and determinations—(a) Findings upon the basis of the hearing record. Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Paducah, Kentucky, marketing area. The recommended decision (12 F. R. 6853) was made by the Acting Assistant Administrator of the Production and Marketing Administration on October 16, 1947, and the decision (12 F. R. 8689) was made by the Secretary on December 17, 1947. Upon the basis of evidence introduced at such hearing and the record thereof, it is found that:

(1) This order, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (c) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) All milk and milk products, handled by handlers, as defined herein, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(b) Additional findings. (1) It is hereby found and proclaimed in connection with the issuance of this order regulating the handling of milk in the said marketing area, that the purchasing power of such milk during the pre-war period of August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1927–July 1929 can be satisfactorily deter-

mined from available statistics of the Department of Agriculture, and the period August 1927-July 1929 is the base period to be used in connection with this order in determining the purchasing power of such milk.

(2) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by (i) each handler, as his pro rata share of such expenses, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts at a pool plant, during the delivery period, of (a) milk from producers (including such handler's own production), and (b) other source milk, and (ii) each cooperative association as its pro rata share of such expenses, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to milk of producers caused to be diverted by it pursuant to § 977.1 (1) (2).

(3) It is necessary, in the public interest, to make this order effective not later than January 1, 1948, the beginning of the January pool, so as to reflect current marketing conditions and to give to producers an immediate assurance of an adequate price for their milk and orderly marketing conditions as an incentive to a needed increase in milk production during the coming winter months of 1948. Any delay beyond January 1, 1948, will seriously threaten the supply of fluid milk for the Paducah, Kentucky, marketing area. The need for this order is also disclosed in the decision (12 F. R. 8689) which was executed on December 17, 1947. The provisions of this order are well known to handlers—the public hearing having been conducted June 16-20, 1947, the recommended decision having been published in the *FEDERAL REGISTER* (12 F. R. 6853) on October 21, 1947, and the final decision having been published in the *FEDERAL REGISTER* on December 20, 1947. Therefore reasonable time is given handlers under the circumstances for preparation for the effective date specified below and it would be impracticable and contrary to the public interest to delay the effective date of this order for 30 days after its publication. (See sec. 4 (c) Administrative Procedure Act, Public Law 404, 79th Congress, 60 Stat. 237.)

(c) **Determinations.** It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order) of more than 50 percent of the volume of milk covered by this order, which is marketed within the Paducah, Kentucky, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order is approved or favored by at least two-thirds of the producers who during the determined representative period (June 1947), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is hereby ordered, that on and after the effective date hereof the handling of milk in the Paducah, Kentucky, marketing area shall be in conformity to and in compliance with the following terms and conditions:

§ 977.1 **Definitions.** The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture, or such other Federal agency authorized to perform the price reporting functions specified herein.

(d) "Person" means any individual, partnership, corporation, association, or other business unit.

(e) "Paducah, Kentucky, marketing area," hereinafter called the "marketing area," means all the territory within McCracken County, Kentucky.

(f) "Pool plant" means: (1) A milk plant from which milk or cream in bottled form is disposed of in the marketing area; or (2) A milk plant approved by the appropriate health authorities to furnish (other than under an emergency permit) milk, skim milk, or cream to a plant described in subparagraph (1) of this paragraph for disposition as bottled Grade A milk or cream in the marketing area.

(g) "Nonpool plant" means any milk manufacturing, processing, or bottling plant other than a pool plant.

(h) "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is permitted by the applicable health authorities to be sold as Grade A bottled milk in the marketing area, and which is:

(1) Received at a pool plant; or

(2) Diverted by a handler from a pool plant to a nonpool plant: *Provided*, That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

(i) "Handler" means:

(1) Any person who, on his own behalf or on behalf of others, operates a pool plant; and

(2) Any cooperative association of producers, as defined in § 977.10 (b), with respect to milk of producers diverted for the account of such association to any milk distributing or milk manufacturing plant.

(j) "Producer-handler" means any person who is both a producer and a handler but who receives no milk from other producers.

(k) "Other source milk" means all milk, skim milk, cream, or any milk product received at a pool plant, except:

(1) That received from producers;

(2) That received from a handler, other than a producer-handler; and

(3) Any nonfluid milk product received and disposed of in the same form.

(l) "Delivery period" means the calendar month, or the total portion thereof, during which the provisions hereof are effective.

(m) "Market administrator" means the person designated pursuant to § 977.2 as the agency for the administration hereof.

§ 977.2 **Market administrator—(a) Designation.** The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) **Powers.** The market administrator shall have the following powers with respect to this part:

(1) To administer its terms and provisions;

(2) To make rules and regulations to effectuate its terms and provisions;

(3) To receive, investigate, and report to the Secretary complaints of violations; and

(4) To recommend amendments to the Secretary.

(c) **Duties.** The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(1) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 977.9: (i) The cost of his bond and of the bonds of his employees; (ii) his own compensation; and (iii) all other expenses, except those incurred under § 977.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(6) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person

who, within 5 days after the day upon which he is required to perform such acts, has not made (i) reports pursuant to § 977.3 (a), or (ii) payments pursuant to § 977.8;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(8) Upon request, report, on or before the 25th day after the end of each delivery period, to each cooperative association described in § 977.10 (b) the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(9) Verify all reports and payments required to be made by handlers pursuant to the provisions of this part;

(10) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation hereof;

(11) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(i) On or before the 6th day after the end of such delivery period, the minimum class prices and the butterfat differential to handlers; and

(ii) On or before the 10th day after the end of such delivery period, the uniform price and the butterfat differential to producers.

§ 977.3 Reports, records, and facilities—(a) Submission of reports. Each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 6th day after the end of each delivery period:

(i) The receipts, utilization, and butterfat tests of all milk, skim milk, cream, and milk products required to be classified pursuant to § 977.4 (a);

(ii) A statement of the disposition of Class I milk outside the marketing area (other than from delivery routes serving stops both within and without the marketing area);

(iii) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(iv) The name and address of each producer who discontinues deliveries of milk, and the date on which the milk of such producer was last received.

(2) Within 20 days after the end of each delivery period, his producer payroll, which shall show for such delivery period:

(i) Each producer's total delivery of milk with the average butterfat test thereof; and

(ii) The net amount of the payment made to each producer with the price, deductions, and charges involved.

(b) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of milk and milk

products and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to: (1) Verify the receipts and disposition of all milk, and milk products, required to be reported, and, in case of errors or omissions, ascertain the correct figures; (2) weigh, sample, and test for butterfat content all milk and milk products handled; and (3) verify payments to producers.

§ 977.4 Classification of milk—(a) Basis of classification. The market administrator shall classify, on the basis of the classes set forth in paragraph (b) of this section and subject to the conditions of paragraphs (c), (d), and (e) of this section, all receipts, within the delivery period by a handler at a pool plant, of (1) milk from producers (including his own farm production), (2) milk, skim milk, cream, and milk products from other handlers, and (3) other source milk; and all milk of producers diverted by a cooperative association.

(b) *Classes of utilization.* The classes of utilization shall be as follows:

(1) Class I milk shall be all milk, skim milk, and cream disposed of in fluid form as milk, buttermilk, milk drinks (whether plain or flavored), and cream; and all milk, skim milk, and cream not specifically accounted for as Class II milk.

(2) Class II milk shall be all milk, skim milk, and cream accounted for (i) as used to produce a product other than those specified in Class I milk, (ii) as actual plant shrinkage of milk received from producers, but not to exceed 2 percent of the total receipts of such milk, and (iii) as actual plant shrinkage of other source milk: *Provided*, That if milk received from producers is used in the form of milk, skim milk, or cream in conjunction with other source milk, the shrinkage allocated to the milk received from producers shall not exceed its pro rata share computed on the basis of the proportion of the volumes received from the various sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All milk, skim milk, and cream received shall be Class I milk, unless the handler who first receives such milk, skim milk, or cream proves to the market administrator that such milk, skim milk, or cream should be classified otherwise.

(2) Any milk, skim milk, or cream classified in one class shall be reclassified if used or reused by such handler or by another handler in another class and the adjustments necessary to reflect the reclassified value of such milk, skim milk, or cream shall be made in the manner specified in § 977.8 (e) with respect to errors in payment.

(d) *Transfers of milk, skim milk, and cream.* (1) Milk, skim milk, and cream disposed of, by transfer or diversion, by a handler from a pool plant to a pool plant of another handler shall be Class I milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the delivery period within which such transaction occurred: *Provided*, That

milk, skim milk, or cream so assigned to Class II milk shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (e) (2) of this section, and any excess of milk, skim milk, or cream shall be assigned to Class I milk.

(2) Milk, skim milk, and cream disposed of, by transfer or diversion, by a handler from a pool plant to a nonpool plant shall be Class I milk, unless (i) the handler claims another class on the basis of utilization mutually indicated in writing to the market administrator by both the operator of the nonpool plant and the handler on or before the 6th day after the end of the delivery period within which such transaction occurred, and (ii) the operator of the nonpool plant maintains books and records showing the utilization of all milk and milk products at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided*, That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of milk, skim milk, and cream in such indicated use, the remaining pounds shall be classified as Class I milk.

(e) *Allocation of milk classified.* The amount remaining in each class after making the following computations shall be the amount in such class allocated to milk received from producers:

(1) Subtract from the total pounds in Class II milk the pounds of actual plant shrinkage of milk received from producers which does not exceed 2 percent of the total receipts of such milk;

(2) Subtract from the pounds remaining in each class, in series beginning with Class II milk, the total pounds of other source milk received;

(3) Subtract from the pounds remaining in each class the total pounds of milk, skim milk, and cream received from other handlers and assigned to such class pursuant to paragraph (d) (1) of this section; and

(4) Add to the pounds remaining in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph; or if the pounds remaining in all classes exceeds the pounds of milk received from producers, subtract such excess from the pounds remaining in the various classes, in series beginning with Class II milk.

§ 977.5 Minimum prices—(a) Class prices. Subject to paragraph (c) of this section, each handler shall pay producers, at the time and in the manner set forth in § 977.8, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk and Class II milk, computed pursuant to § 977.4 (e):

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus the following amounts per hundredweight: \$1.05 for the delivery periods of August, September, October, November, and December; \$0.85 for the delivery periods of July, January, February, and March; and \$0.65 for the delivery periods of April, May, and June.

(2) *Class II milk.* The price for Class II milk shall be the average of the basic (or field) prices reported to or ascertained by the market administrator to have been paid, or to be paid, without deductions for hauling or other charges to be paid by the farm shipper, for milk of 4.0 percent butterfat content received during the delivery period by the Pet Milk Company at its manufacturing plant located at Mayfield, Kentucky, or the price computed pursuant to the following formula, whichever is the higher:

(i) Multiply by 4.0 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(ii) Add 20 percent thereof; and

(iii) Add 3½ cents for each full one-half cent that the price of nonfat dry milk solids by spray process for human consumption is above 5½ cents per pound. For the purpose of this formula the price per pound of nonfat dry milk solids to be used shall be the average of the carlot prices by spray process for human consumption, f. o. b. manufacturing plants in the Chicago area, as published by the Department of Agriculture during the delivery period, including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for such price determination for the previous delivery period. In the event the carlot prices for such milk solids, f. o. b. manufacturing plant, are not so published, the average of the carlot prices for such milk solids delivered at Chicago, as published by the Department of Agriculture, shall be used, and the following shall be used in lieu of the computation provided for herein: Add 3½ cents for each full one-half cent that the price of such nonfat dry milk solids delivered at Chicago is above 6½ cents per pound.

(b) *Basic formula price.* The basic formula price per hundredweight to be used in determining the price for Class I milk shall be the Class II price for the delivery period, or the price computed as follows, whichever is the higher:

To the average of the basic (or field) prices reported to have been paid, or to be paid, without deductions for hauling or other charges to be paid by the farm shipper, per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices are reported to the market administrator or to the Department of Agriculture by the companies listed below:

Companies and Location

Borden Co.:	Pet Milk Co.:
Black Creek, Wis.	Belleville, Wis.
Greenville, Wis.	Coopersville, Mich.
Mt. Pleasant, Mich.	Hudson, Mich.
New London, Wis.	New Glarus, Wis.
Orfordville, Wis.	Wayland, Mich.
Carnation Co.:	White House Milk Co.:
Berlin, Wis.	Manitowoc, Wis.
Jefferson, Wis.	West Bend, Wis.
Chilton, Wis.	
Oconomowoc, Wis.	
Richland Center, Wis.	
Sparta, Mich.	

add an amount computed by multiplying the butterfat differential, determined pursuant to § 977.8 (f), by 5.

(c) *Butterfat differential to handlers.* If any handler has received milk from producers during the delivery period containing more or less than 4.0 percent of butterfat, such handler shall add or deduct, per hundredweight of milk, for each one-tenth of 1 percent of butterfat above or below 4.0 percent, an amount computed as follows: multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 977.6 Applicability of provisions—

(a) *Handlers who are also producers.* Sections 977.3, 977.4, 977.5, 977.7, 977.8, 977.9, and 977.10 shall not apply to a producer-handler, except that such producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

(b) *Payment for excess milk or butterfat.* In the event that a handler, after subtracting receipts of other source milk and receipts of milk, skim milk, and cream from other handlers, has disposed of milk or butterfat in excess of the milk or butterfat which has been credited to producers as having been received from them, such handler shall pay to producers through the producer-settlement fund the value of such milk or butterfat determined as follows:

(1) Multiply any such excess volume subtracted from any class pursuant to § 977.4 (e) (4) by the applicable class price, adjusted by the handler butterfat differential, for each one-tenth of one percent that the computed butterfat content of such excess varies from 4.0 percent;

(2) Multiply the pounds of any such excess butterfat, for which no excess was subtracted pursuant to § 977.4 (e) (4), by 10 times the handler butterfat differential.

§ 977.7 Determination of uniform price to producers—

(a) *Computation of value for each handler.* For each delivery period, the market administrator shall compute the value of milk of producers received by each handler by multiplying the pounds in each class by the applicable class price adjusted by the handler butterfat differential, adding together the resulting class values, and adding to such sum the value of any excess milk or butterfat computed pursuant to § 977.6 (b).

(b) *Computation of the uniform price.* For each delivery period, the market administrator shall compute the uniform price per hundredweight of producer milk containing 4.0 percent of butterfat as follows:

(1) Combine into one total the values, computed pursuant to paragraph (a) of this section, for all handlers who made the reports prescribed by § 977.3 (a) for such delivery period, except those in default of payments required pursuant to § 977.8 (c) for the preceding delivery period;

(2) Subtract, if the average butterfat content of all milk received from producers represented by the values included under subparagraph (1) of this paragraph is in excess of 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, the total value of the butterfat differential applicable pursuant to § 977.8 (f);

(3) Add an amount representing the cash balance in the producer-settlement fund;

(4) Divide the resulting amount by the total hundredweight of milk received from producers included in these computations; and

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers.

§ 977.8 Payment for milk—

(a) *Time and method of payment—*(1) *Partial payment.* On or before the last day of each delivery period, each handler shall make payment to each producer, at not less than the applicable uniform price of the preceding delivery period, for the milk of such producer which was received by such handler during the first 15 days of the current delivery period: *Provided,* That during the first delivery period for which this order is in effect, such rate of payment shall be not less than the prevailing price paid to such producer for 4.0 percent milk for the preceding payment period: *And provided further,* That such rate of payment to any producer who has discontinued delivery of milk during the delivery period, may be reduced by not more than 40 percent.

(2) *Final payment.* On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for milk received from such producer during such delivery period, at not less than the uniform price per hundredweight, subject to the following adjustments: (i) The producer butterfat differential, (ii) payment made pursuant to subparagraph (1) of this paragraph, (iii) marketing service deductions, (iv) deductions authorized by the producer, and (v) any error in calculating payment to such producer for the past delivery periods: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (d) of this section, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain in a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section, and out of which

he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the value of his milk, computed pursuant to § 977.7 (a), for such delivery period is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price adjusted by the producer butterfat differential.

(d) *Payments out of the producer-settlement fund.* On or before the 15th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, any amount by which the total value of his milk, computed pursuant to § 977.7 (a), for such delivery period is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price adjusted by the producer butterfat differential. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(e) *Adjustments of errors in payments.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall make up such payment not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential to producers.* In making payments to each producer, pursuant to paragraph (a) (2) of this section, each handler shall add to the uniform price not less than, or subtract from the uniform price not more than, as the case may be, for each one-tenth of 1 percent of butterfat content above or below 4.0 percent in milk received from such producer, the amount as shown in the following schedule for the butter price range in which falls the average wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture, for the delivery period during which such milk was received:

Butter price range (cents):	Butterfat differential (cents)
17.499 or less	2
17.50-22.499	2½
22.50-27.499	3
27.50-32.499	3½
32.50-37.499	4
37.50-42.499	4½
42.50-47.499	5
47.50-52.499	5½
52.50-57.499	6
57.50-62.499	6½
62.50-67.499	7
67.50-72.499	7½
72.50-77.499	8
77.50-82.499	8½
82.50-87.499	9
87.50-92.499	9½
92.50 and over	10

§ 977.9 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 977.2 (c) (4), each handler shall pay to the market administrator, on or before the 20th day after the end of each delivery period, 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all receipts at a pool plant, during the delivery period, of milk from producers (including such handler's own production) and other source milk. Each cooperative association which is a handler shall pay such pro rata share of expense on only that milk of producers diverted for the account of such association to a nonpool plant.

§ 977.10 *Marketing services.*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 977.8 (a) (2), with respect to milk received from each producer (excluding such handler's own farm production), shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe; and, on or before the 20th day after the end of such delivery period, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Cooperative associations.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 977.8, as are authorized by such producers, and, on or before the 20th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 977.11 *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as

the Secretary may declare and shall continue in force until suspended or terminated.

§ 977.12 *Suspension or termination.* (a) The Secretary shall, whenever he finds that any or all provisions hereof, or any amendment hereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions hereof or any amendment hereto.

(b) *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

(c) *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 977.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 977.14 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 23d day of December 1947, to be effective on and after the 1st day of January 1948.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-11363; Filed, Dec. 26, 1947;
8:55 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 51809]

PART 2—MEASUREMENT OF VESSELS

MEASUREMENT OF VESSELS: CERTIFICATION OF SPACES DEDUCTIBLE FROM GROSS TON- NAGE

Paragraphs (b) and (c) of § 2.49 of the Customs Regulations of 1943 (19 CFR,

Cum. Supp., 2.49 (b), (c)), are amended to read as follows:

§ 2.49 Deductions from gross tonnage. * * *

(b) No space shall be deducted unless it has been included previously in the vessel's gross tonnage; is reasonable in extent for the purpose to which it is appropriated; and is certified by marking as prescribed in paragraph (c) of this section showing that it is used exclusively for such purpose.

(c) The marking required by paragraph (b) of this section shall read: "Certified for the accommodation of Master," "Certified to accommodate _____ seamen," "Certified for boatswain's stores," "Certified chart house," or "Certified W. C.," as the case may be. Certifications for other deductible spaces shall read: "Certified _____," inserting an appropriate designation of the space. The following abbreviations may be used: "Cert. Accom. Master," "Cert. Accom. _____ Seamen," "Cert. Boatswain's Stores," "Cert. Chart House," "Cert. W. C.," or "Cert. _____," inserting the space designation. The marking shall at all times be center-punched or otherwise cut at least one-eighth of an inch in metal, or carved or branded at least three-eighths of an inch in wood over the doorway on the inside of the deductible space. Roman letters and Arabic numerals of at least one-half of an inch in height shall be used and shall be readily legible at all times. If desired, the marking may be made on a plate of metal (but not of other material) permanently fastened in place by means of welding, riveting, or lock-type screws.

(R. S. 161 sec. 3, 23 Stat. 119, sec. 4, 28 Stat. 743, R. S. 4153, as amended; 5 U. S. C. 22, 46 U. S. C. 3, 77, 79; sec. 102, Reorganization Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: December 18, 1947.

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-11343; Filed Dec. 26, 1947;
8:47 a. m.]

[T. D. 51808]

PART 6—AIR COMMERCE REGULATIONS

OGDENSBURG MUNICIPAL AIRPORT, OGDENSBURG, N. Y. REDESIGNATED AS AIRPORT OF ENTRY WITHOUT TIME LIMIT

DECEMBER 18, 1947.

The Ogdensburg Municipal Airport, Ogdensburg, New York, is hereby redesignated as an airport of entry for civil aircraft and for merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the Air Commerce Act of 1926 (49 U. S. C. 179 (b)), effective December 10, 1947, without time limit.

The list of airports of entry in § 6.12, Customs Regulations of 1943 (19 CFR, Cum. Supp., 6.12) as amended, is hereby further amended to include the location and name of this airport. The list of

temporary airports of entry in § 6.13, Customs Regulations of 1943 (19 CFR, Cum. Supp., 6.13) as amended, is hereby further amended by deleting the location, name, and date and period of designation of this airport.

Notice of the proposed redesignation of this airport as an airport of entry without time limit was published in the FEDERAL REGISTER on November 15, 1947 (12 F. R. 7632), pursuant to the provisions of section 4 of the Administrative Procedure Act (Public Law 404, 79th Congress). The redesignation of this airport shall be effective on December 10, 1947, the delayed effective date requirements of section 4 (c) of the Administrative Procedure Act being dispensed with because of the expiration of the previous designation prior to the expiration of 30 days after the publication hereof. The redesignation of this airport is based on a determination that a sufficient need exists to justify such redesignation and the redesignation is made for the purpose of providing for convenient compliance with customs requirements.

(Sec. 7 (b), 44 Stat. 572, as amended, sec. 611, 58 Stat. 714; 49 U. S. C., Sup., 177 (b))

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-11344; Filed, Dec. 26, 1947;
8:47 a. m.]

[T. D. 51810]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

THEATRICAL EFFECTS, MOTION-PICTURE FILMS, AND COMMERCIAL TRAVELERS' SAMPLES

Section 10.68 (a), Customs Regulations of 1943 (19 CFR, Cum. Supp., 10.68 (a)), is hereby amended to read as follows:

(a) Theatrical scenery, properties, and effects, motion-picture films, and commercial travelers' samples, of domestic or foreign origin, taken abroad may be returned without formal entry, *Provided*, That prior to exportation of such articles an application on customs Form 4455 was filed and the merchandise was identified as set forth in § 10.8, governing the exportation of articles sent abroad for repairs. When articles other than those exported by mail or parcel post are examined and registered at one port and exported through another port, they shall be forwarded to the port of exportation under a transportation and exportation entry, as prescribed in § 10.38 (d). In the case of commercial travelers' samples taken abroad for temporary use, collectors, in their discretion, may waive examination at the time of exportation.

(R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: December 19, 1947.

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-11349; Filed, Dec. 26, 1947;
8:47 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration (Old Age and Survivors Insurance) Federal Security Agency

[Reg. 3, Further Amended]

PART 403—FEDERAL OLD-AGE AND SURVIVORS INSURANCE

RECOMPUTATION OF BENEFITS

Section 403.304 (b) (2) of Regulations No. 3, as amended (12 F. R. 614), is amended to read as follows:

§ 403.304 Recomputation of benefits. * * *

(b) *Method of recomputation.* * * *
(2) *For survivors.* The primary insurance benefit of a deceased wage earner shall be recomputed in the manner provided for the computation of benefits in §§ 403.301 and 403.302:

(i) As of the date of the wage earner's death, and

(ii) As though the wage earner became entitled to primary insurance benefits on the last day of the quarter in which he could first have become entitled to primary insurance benefits on filing application therefor, and

(iii) As though he became entitled to primary insurance benefits on each intervening March 31 between the dates specified in subdivisions (i) and (ii) of this subparagraph.

The highest rate obtained from the foregoing computations if in excess of the individual's existing primary insurance benefit is the individual's recomputed primary insurance benefit.

(Sec. 205 (a), 53 Stat. 1368, sec. 1102, 49 Stat. 647; 42 U. S. C. 405 (a), 1302; sec. 4 of Reorganization Plan No. 2 of 1946, 60 Stat. 1095; and 45 CFR, 1946 Supp., 1.21; applies sec. 209 (q), 60 Stat. 989, 42 U. S. C. Sup. 409 (q))

Dated: December 17, 1947.

[SEAL] A. J. ALTMAYER,
Commissioner for Social Security.

Approved December 22, 1947.

OSCAR R. EWING,
Federal Security Administrator.

[F. R. Doc. 47-11346; Filed, Dec. 26, 1947;
8:47 a. m.]

TITLE 24—HOUSING CREDIT

Chapter V—Federal Housing Administration

Subchapter L—War Rental Housing Insurance

PART 580—ADMINISTRATIVE RULES FOR WAR RENTAL HOUSING INSURANCE UNDER SECTION 608 OF THE NATIONAL HOUSING ACT

Subchapter L, War Rental Housing Insurance, is amended, effective December 19, 1947, by striking the present Part 580, Administrative Rules for War Housing Insurance Under Section 608 of the National Housing Act for Mortgages Not Exceeding \$200,000; and by striking the entire present Part 581, Administrative Rules for War Rental Housing Insurance Under Section 608 of the National Housing Act for Mortgages Ex-

ceeding \$200,000; and by inserting in lieu thereof a new Part 580, as follows:

APPROVAL OF MORTGAGEES

- Sec.
- 580.1 Classification of mortgagees.
- 580.2 Property inspection by mortgagee.
- 580.3 Non-approval.
- 580.4 Withdrawal of approval.

APPLICATION AND COMMITMENT

- 580.5 Submission of application.
- 580.6 Form of application.
- 580.7 Application fee.
- 580.8 Approval of application.
- 580.9 Inspection fee.

ELIGIBLE MORTGAGES

- 580.10 Mortgage must be on approved form.
- 580.11 Amount of principal obligation.
- 580.12 Maturity.
- 580.13 Interest rate.
- 580.14 Amortization provisions.
- 580.15 Payment requirements.
- 580.16 Covenants for fire insurance.
- 580.17 Additional payment requirements.
- 580.18 Rights and remedies of mortgagee in event of default or foreclosure.
- 580.19 Initial service charge.
- 580.20 Recording fees, mortgage and stamp taxes.
- 580.21 Additional terms and conditions.
- 580.22 Soundness of risk of project.

ELIGIBLE MORTGAGORS

- 580.23 Property free of liens and obligations.
- 580.24 Occupancy priority to veterans.
- 580.25 Satisfactory credit standing.
- 580.26 Requirements regarding form of mortgagor.

SUPERVISION OF MORTGAGORS

- 580.27 Working capital requirements.
- 580.28 Assurance of completion requirements.
- 580.29 Regulation of mortgagor by Commissioner in general.
- 580.30 Required supervision of mortgagor.
- 580.31 Form of assurance of completion.
- 580.32 Waiver of requirements.

ELIGIBLE PROPERTIES

- 580.33 Eligibility of property.
- 580.34 Development of property.
- 580.35 Compliance with zoning restrictions, etc.

TITLE

- 580.36 Eligibility of title.
- 580.37 Title evidence.

INSURANCE OF ADVANCES DURING CONSTRUCTION

- 580.38 Agreement as to manner and conditions governing advances.
- 580.39 Prevailing wage requirement.
- 580.40 Non-application.

EFFECTIVE DATE

- 580.41 Effective date.

AUTHORITY: §§ 580.1 to 580.41, inclusive, issued under 55 Stat. 55, 56 Stat. 305; 12 U. S. C. Sup. 1736-1742.

APPROVAL OF MORTGAGEES

§ 580.1 *Classification of mortgagees.* The following may become the mortgagee of a mortgage insured under section 608 of the National Housing Act:

(a) Any institution or organization which is approved as a mortgagee under sections 203 (b) or 603 (b) of the National Housing Act; and

(b) Any other chartered institution or permanent organization having succession, upon its approval by the Commissioner for a particular transaction.

§ 580.2 *Property inspection by mortgagee.* As a condition precedent to in-

surance, the mortgagee must agree that it will ascertain the general physical condition of the mortgaged property at intervals not greater than one (1) year, and that, if at any time it be determined by the mortgagee that, in addition to ordinary wear and tear, the mortgaged property is being subjected to permanent or substantial injury, through unreasonable use, abuse or neglect, the mortgagee will, unless adequate provision satisfactory to a prudent lender is made for the prompt restoration of the mortgaged property, forthwith take such action as may be available to it under the mortgage and appropriate to the particular case, for the protection and preservation of the mortgaged property and the income therefrom, and the submission of an application for insurance shall be evidence of such agreement.

§ 580.3 *Non-approval.* The Commissioner reserves the right to refuse to approve any institution or organization as the mortgagee of a particular mortgage or to withhold any such approval pending compliance by such institution or organization, with additional conditions which in the discretion of the Commissioner are required in the particular case.

§ 580.4 *Withdrawal of approval.* Approval of a mortgagee may be withdrawn by notice from the Commissioner upon violation of the agreement mentioned in § 580.3, and such approval may also be withdrawn at any time for other cause sufficient to the Commissioner, but no withdrawal will in any way affect the insurance on mortgages theretofore accepted for insurance.

APPLICATION AND COMMITMENT

§ 580.5 *Submission of application.* Any approved mortgagee may submit an application for insurance of a mortgage about to be executed, or of a mortgage already executed.

§ 580.6 *Form of application.* The application must be made upon a standard form prescribed by the Commissioner and filed at the local Federal Housing Administration office serving the area in which the property is located.

§ 580.7 *Application fee.* The application must be accompanied by the mortgagee's check to cover, (a) an "Application Fee" computed at the rate of one dollar and fifty cents (\$1.50) per thousand dollars (\$1,000) of the original face amount of the mortgage loan for which application is made, to cover the costs of analysis by the Commissioner, and (b) a sum (referred to as "Commitment Fee") which when added to the Application Fee will aggregate three dollars (\$3) per thousand of the face amount of the mortgage loan approved for insurance by the Commissioner, and which shall be paid at the time of delivery of the commitment. If the application is refused without an estimate of replacement costs being made by the Commissioner, the fee paid will be returned to the applicant. If, after insurance, the amount of an insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, a further fee shall

be paid, based upon the amount of such increase.

§ 580.8 *Approval of application.* Upon approval of an application, a commitment will be issued upon a form approved by the Commissioner, setting forth the terms and conditions upon which the mortgage will be insured which commitment may be on a form providing for advances of mortgage money during construction and the insurance of such advances or it may be on a form providing for insurance of the mortgage after completion of the improvement depending upon the request of the mortgage indicated upon the application for mortgage insurance.

§ 580.9 *Inspection fee.* An inspection fee computed at the rate of five dollars (\$5.00) per thousand of the face amount of the commitment shall be paid as provided for in the commitment.

ELIGIBLE MORTGAGES

§ 580.10 *Mortgage must be on approved form.* To be eligible for insurance, the mortgage must be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated by a mortgagor with the qualifications hereinafter set forth in §§ 580.23, 580.24, 580.25, 580.26, must be a first lien upon property that conforms with the property standards prescribed by the Commissioner, and the mortgagee must be obligated, as a part of the mortgage transaction, to disburse the entire principal amount of the mortgage to, or for the account of, the mortgagor.

§ 580.11 *Amount of principal obligation.* The mortgage must secure a principal obligation in multiples of one hundred dollars (\$100) but not exceeding five million dollars (\$5,000,000) and not in excess of ninety per centum (90%) of the amount which the Commissioner estimates will be the necessary current cost of the completed property or project, including the land; the proposed physical improvements; utilities within the boundaries of the property or project; architects' fees; taxes and interest accruing during construction; and other miscellaneous charges incidental to construction and approved by the Commissioner: *Provided*, That such mortgage shall not in any event exceed the amount which the Commissioner estimates will be the cost of the completed physical improvements on the property or project, exclusive of offsite public utilities and streets, and organization and legal expenses. Such part of the mortgage as may be attributable to dwelling use shall not exceed \$1,500 per room: *Provided*, That the Commissioner may increase this amount to \$1,800 where in his discretion cost levels so require.

§ 580.12 *Maturity.* The mortgage must have a maturity satisfactory to the Commissioner and should come due upon the first day of a month.

§ 580.13 *Interest rate.* The mortgage may bear interest at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case shall such interest rate be in excess of four

per centum (4%) per annum. Interest shall be payable only on principal outstanding and shall be payable in monthly installments.

§ 580.14 *Amortization provisions.* The mortgage must contain complete amortization provisions satisfactory to the Commissioner requiring monthly payments on a level annuity or declining annuity basis as agreed upon by the mortgagor and mortgagee. Where the insured mortgage does not exceed \$200,000.00, payments on account of principal shall begin not later than the first day of the twelfth (12) month following the execution of the mortgage. Where the mortgage does exceed \$200,000.00, such principal payments shall begin not later than the first day of the eighteenth (18) month following the execution of the mortgage, or at such earlier date, as may be determined by the Commissioner at time of commitment. In cases where a commitment has been issued to insure upon completion amortization shall commence on the first day of a month not later than thirty (30) days after the expiration date of the commitment.

§ 580.15 *Payment requirements.* The mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth (1/12) of the annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage shall provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in § 582.4 of this chapter.

§ 580.16 *Covenants for fire insurance.* The mortgage shall contain a covenant binding the mortgagor to keep the property insured by a standard policy or policies against fire and such other hazards as the Commissioner, upon the insurance of the mortgage, may stipulate, in an amount which will comply with the co-insurance clause applicable to the location and character of the property, but not less than eighty percent (80%) of the actual cash value of the insurable improvements and equipment of the project. The initial coverage shall be in an amount estimated by the Commissioner at the time of completion of the entire project or units thereof. The policies evidencing such insurance shall have attached thereto a standard mortgage clause making loss payable to the mortgagee and the Commissioner, as interests may appear.

§ 580.17 *Additional payment requirements.* (a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize the ground rents, if any, and the estimated amount of all taxes, water rates and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held in trust for the benefit and account of the mortgagor by the mortgagee, for the purpose of paying such ground rents,

taxes, water rates and assessments, and insurance premiums, before the same become delinquent. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, water rates and assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

(b) All monthly payments to be made by the mortgagor to the mortgagee as hereinabove provided in §§ 580.13, 580.14, 580.15, 580.16, 580.17, shall be added together and the aggregate amount thereof shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

- (1) Premium charges under the contract of insurance;
- (2) Ground rents, taxes, water rates, special assessments, and fire and other hazard insurance premiums;
- (3) Interest on the mortgage; and
- (4) Amortization of the principal of the mortgage.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good by the mortgagor prior to or on the due date of the next such payment, constitute an event of default under the mortgage.

§ 580.18 *Rights and remedies of mortgagee in event of default or foreclosure.* The mortgage must contain a provision or provisions, satisfactory to the Commissioner, giving to the mortgagee, in the event of default or foreclosure of the mortgage, such rights and remedies for the protection and preservation of the property covered by the mortgage and the income therefrom, as are available under the law or custom of the jurisdiction.

§ 580.19 *Initial service charge.* The mortgagee may charge the mortgagor the amount of the application fees provided in § 580.7 and an initial service charge to reimburse itself for the cost of closing the transaction. Such initial service charge may be in an amount not in excess of one and one-half per centum (1½%) of the original principal amount of the mortgage.

§ 580.20 *Recording fee, mortgage and stamp taxes.* In addition to the charges hereinbefore mentioned, the mortgagee may collect from the mortgagor only recording fees, mortgage and stamp taxes, if any, and such costs of survey and title search as are approved by the Commissioner.

§ 580.21 *Additional terms and conditions.* The mortgage may contain such other terms, conditions and provisions with respect to advances during construction, assurance of completion, release of parts of the mortgaged property from the lien of the mortgage, insurance, repairs, alterations, payment of taxes, default and management reserves, foreclosure proceedings, anticipation of maturity, and other matters as the Commissioner may in his discretion prescribe or approve. The mortgagee may include in the mortgage a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the mortgagor and mortgagee: *Provided,*

however, That the mortgagor must be permitted to prepay up to fifteen per centum (15%) of the original principal amount of the mortgage in any one calendar year without any such additional charge.

§ 580.22 *Soundness of risk of project.* The mortgage must be executed with respect to a project which, in the opinion of the Commissioner, is an acceptable risk in view of the shortage of housing.

ELIGIBLE MORTGAGORS

§ 580.23 *Property free of liens and obligations.* A mortgagor must establish that after final disbursement of the loan, the property covered by the mortgage is free and clear of all liens other than such mortgage, and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

§ 580.24 *Occupancy priority to veterans.* The mortgagor must establish, in a manner satisfactory to the Commissioner, that after completion of the project, preference or priority of opportunity to occupy will be given to veterans of World War II and their immediate families, except that this requirement does not apply to hardship cases as defined by the Commissioner and approved by him.

§ 580.25 *Satisfactory credit standing.* A mortgagor must have a general credit standing satisfactory to the Commissioner.

§ 580.26 *Requirements regarding form of mortgage.* In addition to meeting the requirements set forth in §§ 580.23 to 580.25, inclusive, the mortgagor must be:

(a) A corporation or trust formed or created, with the approval of the Commissioner, for the purpose of providing housing for rent or sale, and possessing powers necessary therefor and incidental thereto, which corporation, or trust, until the termination of all obligations of the Commissioner under such insurance, is regulated or restricted by the Commissioner as to rents or sales, charges, capital structures, and methods of operation to such an extent as may be deemed advisable by the Commissioner. Such regulation or restriction shall remain in effect until such time as the mortgage insurance contract terminates without obligation upon the Commissioner to issue debentures as a result of such termination. So long as such contract of insurance is in effect, the corporation or trust shall engage in no business other than the construction and operation of a Rental Housing project or projects; or

(b) A Federal or State instrumentality, a municipal corporate instrumentality of one or more States, or a limited dividend corporation formed under and restricted by Federal or State housing laws as to rents, charges, and methods of operation; or

(c) If the mortgage is not in excess of \$200,000, the mortgagor may be an individual.

SUPERVISION OF MORTGAGORS

§ 580.27 Working capital requirements. The mortgagor shall deposit with the mortgagee an amount equivalent to not less than one and one-half percent (1½%) of the original principal amount of the mortgage, in trust for the purpose of meeting the cost of equipping and renting the project subsequent to completion of construction of the entire project or units thereof, and to pay taxes and insurance premiums for the twelve (12) months' period following the completion of construction. Any balance of said fund not used or set aside for the above purposes shall be paid to the mortgagor upon completion of the entire project to the satisfaction of the Commissioner. In cases where a commitment to insure upon completion is issued, this requirement may be waived at the discretion of the mortgagee.

§ 580.28 Assurance of completion requirements. (a) The mortgagor must establish in a manner satisfactory to the Commissioner that, in addition to the proceeds of the insured mortgage, the mortgagor has funds sufficient to assure completion of construction of the project. The Commissioner may require such funds, if any, to be deposited with and held by the mortgagee in a special account or with an acceptable trustee or escrow agent under an appropriate agreement approved by the Commissioner which will require such funds to be expended for work and material on the physical improvements prior to the advance of any mortgage money.

(b) The Commissioner may require the deposit with the mortgagee or with an acceptable trustee or escrow agent under an appropriate agreement of such cash as may be required for the completion of offsite public utilities and streets.

§ 580.29 Regulation of mortgagor by Commissioner in general. A corporate mortgagor shall be regulated through the ownership by the Commissioner of certain shares of special stock (or other evidence of beneficial interest in the mortgagor) which stock or interest will acquire majority voting rights in the event of default under the mortgage or violation of provisions of the charter of the mortgagor or the violation of any valid agreement entered into between the mortgagor, the mortgagee and/or the Commissioner, but only for a period co-extensive with the duration of such default or violation. The shares of stock or beneficial interest issued to the Commissioner, his nominee or nominees and/or the Federal Housing Administration shall be in sufficient amount to constitute under the laws of the particular State a valid special class of stock or interest and shall be issued in consideration of the payment by the Commissioner of not exceeding in the aggregate \$100. Such stock shall be represented by certificates issued in the name of the Commissioner, and/or in the name of his nominee or nominees, and/or in the name of the Federal Housing Administration, as the Commissioner shall re-

quire. Upon the termination of all obligations of the Commissioner under his contract of mortgage insurance or any succeeding contract or agreement covering the mortgage obligation, including the obligation upon the Commissioner to issue debentures as a result of such termination, all regulation and restriction of the mortgagor shall cease. When the right of the Commissioner to regulate or restrict the mortgagor shall so terminate, the shares of special stock or other evidence of beneficial interest shall be surrendered by the Commissioner upon reimbursement of his payments therefor plus accrued dividends, if any, thereon. Such regulation and the additional regulation or restriction hereinafter provided in §§ 580.30 to 580.32, inclusive, shall be made effective by incorporation of appropriate provisions therefor in the charter or other instrument under which the mortgagor is created, or by agreement. In the case of an individual mortgagor, regulation by the Commissioner may be exercised through a regulatory agreement in form and content satisfactory to the Commissioner.

§ 580.30 Required supervision of mortgagor. The following are the items which will be regulated or restricted in the manner and to the extent hereinbefore indicated:

(a) No charge shall be made by the mortgagor for the accommodations offered by the project in excess of a rental schedule to be filed with the Commissioner and approved by him or his duly constituted representative prior to the opening of the project for rental, which schedule shall be based upon a maximum average rental fixed prior to the insurance of the mortgage, and shall not thereafter be changed except upon application of the mortgagor to, and the written approval of the change by, the Commissioner.

(b) The established maximum rental shall be the maximum authorized charge against any tenant for the accommodations offered and shall include all services except telephone, gas, electric, and refrigeration facilities. Charges permitted in addition to such maximum rental shall be subject to the approval of the Commissioner.

(c) The regulation and restriction provided for in paragraphs (a) and (b) of this section shall not apply so long as the maximum rents are regulated by another agency of the United States Government. Such maximum rental as established by such agency of the United States will be accepted by the Commissioner as an approved rent schedule. Upon the expiration of the authority of any such agency to fix maximum rentals, the established maximum rental schedule then in force with respect to the project shall be the established maximum rental schedule within the provisions of paragraphs (a) and (b) of this section, and shall not thereafter be changed except upon approval of the Commissioner.

(d) A reserve for replacement shall be accumulated and maintained with the mortgagee so long as the mortgage insur-

ance is in force, and the amount and types of such reserves and conditions under which they shall be accumulated, replenished and used, shall be specified in the regulatory agreement or charter. Failure to comply with the terms of this requirement may be considered by the Commissioner as a default under the terms of the regulatory agreement or charter.

(e) The mortgagor shall keep full and complete records of all corporate meetings of directors, stockholders and finance committee, if any, and of the elections and resignations of its officers; and whether an individual or a corporate mortgagor shall keep complete, orderly and accurate books of account and shall also keep copies of all written contracts or other instruments which affect it or any of its property which shall be subject to inspection and examination by the Commissioner or his duly authorized agents at all reasonable times.

(f) The mortgagor shall furnish at the request of the Commissioner, his employees or attorneys, specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operation, condition of the property and the status of the insured mortgage and any other information with respect to the mortgagor or its property which may reasonably be required. The above enumeration of specific items shall not be deemed in any manner to limit the generality of the preceding sentence. In case the mortgagor is in default under the insured mortgage, its regulatory agreement or charter, or has failed to meet any of the applicable requirements of this section or is in default with respect to any agreement between the mortgagor and the mortgagee or under any contract for the improvement of the mortgaged premises or under any agreement to which the Federal Housing Commissioner is a party, or in case an inspection shows that the property is not being managed or maintained in a manner satisfactory to the Commissioner, the Commissioner may require the mortgagor to furnish at the expense of the latter a complete audit of its books of account duly certified by a public accountant satisfactory to the Commissioner.

§ 580.31 Form of assurance of completion. Assurance for the completion of a project may be either (a) the personal undertaking or obligation in a form and by an obligor or obligors designated by the mortgagee and satisfactory to the Commissioner, in an amount at least equal to ten per centum (10%) of the construction cost, or (b) an escrow deposit in an approved depository of cash or securities of, or fully guaranteed as to principal and interest by, the United States of America, in an amount at least equal to ten per centum (10%) of the construction cost, conditioned on completion of the project to the satisfaction of the Commissioner.

§ 580.32 Waiver of requirements. In the event the mortgagor is a Federal or State instrumentality, a municipal cor-

porate instrumentality of one or more states, or a limited dividend corporation formed under and restricted by Federal or State housing laws as to rents, charges and methods of operation, as described in § 580.26 (b), the Commissioner may, in his discretion, waive the requirements set forth in §§ 580.27 to 580.32, inclusive, in whole or in part.

ELIGIBLE PROPERTIES

§ 580.33 *Eligibility of property.* A mortgage to be eligible for insurance must be on real estate held in fee simple, or on the interest of the lessee under a lease for not less than ninety-nine (99) years which is renewable or under a lease having a period of not less than fifty (50) years to run from the date the mortgage is executed.

§ 580.34 *Development of property.* At the time the mortgage is insured the mortgagor shall have constructed and completed or shall be obligated to construct and complete new housing accommodations on the mortgage property designed principally for residential use, conforming to standards satisfactory to the Commissioner, and consisting of not less than eight (8) rentable dwelling units on one site and may be detached, semidetached, or row houses, or multi-family structures.

§ 580.35 *Compliance with zoning restrictions, etc.* Such dwellings and other improvements, if any, must not violate any zoning or deed restrictions applicable to the project site and must comply with all applicable building and other governmental regulations.

TITLE

§ 580.36 *Eligibility of title.* In order to be eligible for insurance, the Commissioner must determine that marketable title to the mortgaged property is vested in the mortgagor as of the date the mortgage is filed for record. The Commissioner will examine the title to property covered by a mortgage offered for insurance and in the event a determination of eligibility with respect to title is made as herein provided, such finding shall constitute a part of the contract of insurance evidenced by the insurance endorsement.

§ 580.37 *Title evidence.* Upon endorsement of the mortgage for insurance, the mortgagee, without expense to the Commissioner, shall furnish to the Commissioner a survey satisfactory to him and a policy of title insurance as provided in paragraph (a) of this section. *Provided, however,* That in the event the mortgagee is unable to furnish such policy for reasons satisfactory to the Commissioner, the mortgagee, without expense to the Commissioner, shall furnish evidence of title as provided in paragraphs (b), (c), or (d) of this section as the Commissioner may require.

(a) A policy of title insurance with respect to such mortgage issued by a company satisfactory to the Commissioner. Such policy shall comply with the "L. I. C. Standard Mortgagee Form" or the "A. T. A. Standard Mortgagee Form," or such other form as may be approved by the Commissioner and

which offers substantially the same coverage under substantially the same conditions and stipulations. Such policies may contain such "permitted" and other exceptions, restrictions, and limitations as are approved by the Commissioner. The policy shall become effective as of the date the mortgage is filed for record and shall run to the mortgagee and the Commissioner, their successors and assigns, as their respective interests may appear.

(b) An abstract of title satisfactory to the Commissioner, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Commissioner, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(c) A Torrens or similar title certificate.

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

INSURANCE OF ADVANCES DURING CONSTRUCTION

§ 580.38 *Agreement as to manner and conditions governing advances.* (a) The Commissioner, the mortgagor and the mortgagee shall, prior to the insurance of the mortgage, agree with respect to the manner and conditions under which advances (if any) during construction are to be made by the mortgagee and approved for insurance by the Commissioner.

(b) Such agreement shall require the mortgagee to notify the Commissioner, through the insuring office having jurisdiction over the territory in which the property is situated, in writing, on an application form prescribed by the Commissioner, setting forth the proposed date and the amount of the advance to be made, and the Commissioner shall deliver to the mortgagee within a reasonable time from the date of such notice a certificate executed on behalf of the Commissioner on a form prescribed by him setting forth the amount approved for insurance or advising the mortgagee of the Commissioner's non-approval and setting forth the reasons therefor.

(c) Such agreement shall be set forth on a form prescribed by the Commissioner, shall contain such additional terms, conditions and provisions as the Commissioner shall in the particular case prescribe or approve, and when properly executed by the Commissioner and the mortgagee, shall constitute a part of the mortgage insurance contract.

§ 580.39 *Prevailing wage requirement.* No advance under any mortgage shall be eligible for insurance unless there is filed with the application for such advance a certificate or certificates in the form required by the Commissioner, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a

similar character, as determined by the Secretary of Labor prior to the beginning of construction and after the date of the filing of the application for insurance.

§ 580.40 *Non-application.* In the event a commitment to insure upon completion is issued and accepted the provisions of § 580.38 (b) and (c) do not apply.

EFFECTIVE DATE

§ 580.41 *Effective date.* These Administrative Rules are effective as to all mortgages on which a commitment to insure under section 608 is issued, on or after December 19, 1947 pursuant to an application for mortgage insurance filed on or after said date.

Issued at Washington, D. C., December 19, 1947.

[SEAL] FRANKLIN D. RICHARDS,
Federal Housing Commissioner.

[F. R. Doc. 47-11362; Filed, Dec. 26, 1947; 8:46 a. m.]

PART 581—ADMINISTRATIVE RULES FOR WAR RENTAL HOUSING INSURANCE UNDER SECTION 608 OF THE NATIONAL HOUSING ACT FOR MORTGAGES EXCEEDING \$200,000

SUPERSEDITION OF PART

CROSS REFERENCE: For the supersession of this part by revision of Part 580 of this chapter, see Part 580, *supra*.

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5595]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

FIGURE TO BE USED IN DETERMINING RESERVE AND OTHER POLICY LIABILITY CREDIT FOR LIFE INSURANCE COMPANIES¹

DECEMBER 19, 1947.

PARAGRAPH 1. By virtue of the authority vested in me by section 202 (b) of the Internal Revenue Code, as amended by section 163 of the Revenue Act of 1942 (53 Stat. 71, 56 Stat. 870; 26 U. S. C. and Sup., 202 (b)), it is hereby determined that the figure to be used in computing the "reserve and other policy liability credit" of life insurance companies for the taxable year 1947 shall be 1.0066.

PAR. 2. It is found that notice and public procedure are unnecessary, since the figure announced in this Treasury decision is computed from information contained in the income tax returns of life insurance companies for the year 1946 which are not open to public inspection. The public accordingly cannot effectively participate in the determination of such figure.

[SEAL] A. L. M. WIGGINS,
Acting Secretary of the Treasury.

[F. R. Doc. 47-11350; Filed, Dec. 26, 1947; 8:47 a. m.]

¹ See § 29.202-1.

TITLE 29—LABOR

Chapter IV—Child Labor Branch and Youth Employment Branch, Department of Labor

PART 422—OCCUPATIONS PARTICULARLY HAZARDOUS FOR EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL BEING

LOGGING OCCUPATIONS AND OCCUPATIONS IN OPERATION OF ANY SAWMILL, LATH MILL, SHINGLE MILL, OR COOPERAGE-STOCK MILL

By virtue of the authority conferred on me by section 3 (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1050; 29 U. S. C. 203 (1)) and Reorganization Plan No. 2 of 1946 adopted pursuant to the Reorganization Act of 1945 (59 Stat. 613), and pursuant to the Procedure Governing Determinations of Hazardous Occupations (29 CFR, Part 421); an investigation having been conducted with respect to the hazards for minors between 16 and 18 years of age in employment in logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill, and a report of said investigation having been submitted to me showing that (1) certain occupations in the logging of pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar woods are sufficiently hazardous to warrant extending the provisions of Hazardous Occupations Order No. 4 (29 CFR, 422.4) so as to prohibit the employment of minors between 16 and 18 years of age in such occupations by an employer subject to section 12 (a) of the Fair Labor Standards Act, and (2) certain of the occupations excepted from Hazardous Occupations Order No. 4 for the duration of the war (29 CFR, 422.4 (d)) are sufficiently nonhazardous to warrant permanent exception from said order; a proposed finding and order designed to accomplish these purposes having been published in the FEDERAL REGISTER on October 28, 1947 (12 F. R. 6979), and a public hearing having been held with respect to the said proposed finding and order; and all relevant information and evidence having been carefully considered, including the report of investigation with respect to the occupations involved, and minor changes having been made in the proposed finding and order as a result thereof;

Now therefore, I, L. B. Schwellenbach, Secretary of Labor, hereby find and declare and order that Hazardous Occupations Order No. 4 be revised, effective February 2, 1948, to read as follows:

§ 422.4 *Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill*—(a) *Finding and declaration of fact.* All occupations in logging and all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill are particularly hazardous for the employment of minors be-

tween 16 and 18 years of age, except the following:

(1) Exceptions applying to logging:
(i) Work in offices or in repair or maintenance shops.

(ii) Work in the construction, operation, repair, or maintenance of living and administrative quarters of logging camps.

(iii) Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining fire-fighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrolman away from the actual logging operations. *Provided*, That the provisions of this paragraph shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.

(iv) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this section.

(v) Work in the feeding or care of animals.

(2) Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill: *Provided*, That these exceptions do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained: *And further provided*, That these exceptions do not apply to work which entails entering the sawmill building:

(i) Work in offices or in repair or maintenance shops.

(ii) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.

(iii) Pulling lumber from the dry chain.

(iv) Clean-up in the lumberyard.

(v) Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.

(vi) Clerical work in yards or shipping sheds, such as done by ordermen, tallymen, and shipping clerks.

(b) *Definitions.* As used in this section:

(1) The term "all occupations in logging" shall mean all work performed in connection with the felling of timbers; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of such products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of

machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber-stand improvement, or in emergency fire-fighting.

(2) The term "all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill" shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of such mills; and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established herein.

Signed at Washington, D. C. this 19th day of December 1947.

L. B. SCHWELLENBACH,
Secretary of Labor.

[F. R. Doc. 47-11379; Filed, Dec. 26, 1947; 8:50 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XVII—Office of Scientific Research and Development

PART 1900—ORGANIZATION

TERMINATING THE OFFICE OF SCIENTIFIC RESEARCH AND DEVELOPMENT AND PROVIDING FOR THE COMPLETION OF ITS LIQUIDATION

CROSS REFERENCE: For termination of the Office of Scientific Research and Development and provision for the completion of its liquidation, see Executive Order 9913 under Title 3, *supra*.

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter III—Coast Guard: Inspection and Navigation

[CGFR 47-58]

PART 302—BOUNDARY LINES OF INLAND WATERS

Correction

In Federal Register Document 47-11135, appearing at page 8458 of the issue for Friday, December 19, 1947, paragraph (b) of § 302.65 should read as follows:

(b) Pilot Rules for Western Rivers are to be followed to Caloosahatchee River northward of a line drawn from the westernmost extremity of the shore line at Punta Rosa to Sword Point.

TITLE 34—NAVY

Chapter I—Department of the Navy

PART 30—PROCURING ACTIVITIES

PART 31—NAVY PROCUREMENT REGULATION

Add Parts 30 and 31 as follows:

PART 30—PROCURING ACTIVITIES

Sec.

- 30.1 Delegation of purchase responsibility.
- 30.2 The technical bureaus and offices.
- 30.3 BuSanda and its field activities.
- 30.4 Headquarters, Marine Corps.

AUTHORITY: §§ 30.1 to 30.4, inclusive, issued under 12 Stat. 565; 34 U. S. C. 591.

§ 30.1 *Delegation of purchase responsibility.* The Secretary of the Navy has directed that the Chief of each Bureau and Office is responsible for procuring supplies and services under the technical cognizance of his Bureau or Office, and for determining the extent to which such procurement will be carried out in his Bureau or Office and the extent to which the Bureau of Supplies and Accounts will be requested, by requisition or otherwise, to carry out such procurement. The Chief of each Bureau and Office is authorized to enter into contracts on behalf of the Government and in the name of the United States of America, for supplies or services under his technical cognizance, and is further authorized to delegate such authority to such person or persons as may be selected by him. Accordingly, the various bureaus and offices of the Navy Department purchase material through their own contracting officers.

§ 30.2 *The technical bureaus and offices—(a) Bureau of Aeronautics.* The Bureau of Aeronautics purchases complete aircraft and government furnished component parts for installation therein; complete aircraft engines; catapults and catapult spare parts; arresting gear and arresting gear spare parts; aeronautical equipment and instruments; and other technical items which require close technical liaison between aeronautical engineers and the contractor manufacturers. The Bureau of Aeronautics also purchases for the Deputy Chief of Naval Operations for Air, aerological, photographic and training equipment.

The Aviation Supply Office, Philadelphia, Pa., under the joint direction of the Bureau of Aeronautics and the Bureau of Supplies and Accounts, procures, stores, and distributes aeronautical material including spare parts (except those parts purchased under the original airframes contract).

(b) *Bureau of Medicine and Surgery.* All purchasing for the Bureau of Medicine and Surgery is handled by the Joint Army-Navy Medical Procurement Office, New York.

(c) *Bureau of Naval Personnel.* The Bureau of Naval Personnel contracts for services and for the use of quarters and facilities for training purposes and for welfare and recreational requirements. The Bureau of Supplies and Accounts purchases the matériel, equipment, and supplies required by the Bureau of Naval Personnel; non-professional books for use in libraries are purchased by the Navy Purchasing Office, New York.

(d) *Bureau of Ordnance.* The Bureau of Ordnance contracts for ordnance equipment, including guns, gun mounts, rocket launchers, fire control devices (for vessels and aircraft) and aircraft armament (less certain items of non-expendable equipment built into the planes); ammunition, torpedoes, mines, depth charges, projectiles, rockets, bombs and armor; and for services and facilities used in connection with research, development, and production of ordnance material and equipment.

(e) *Bureau of Ships.* The Bureau of Ships contracts for the construction of ships of all types and for the repair, alteration and conversion of naval vessels; for facilities under its cognizance; for technical material and equipment required for the construction and outfitting of naval vessels; and for technical services and research and development work. Although the Bureau of Ships usually furnishes the main propulsion machinery and all technical equipment and material required for the construction of naval vessels. When the "Lead Yard" is a navy yard, such purchases are made by a field purchasing activity of the Bureau of Supplies and Accounts. With Bureau of Supplies and Accounts the Bureau maintains control centers for the procurement and inventory control of repair parts for matériel under the cognizance of the Bureau of Ships.

(f) *Bureau of Yards and Docks.* The Bureau of Yards and Docks contracts for all matériel and services required for the construction of public works and public utilities at naval shore activities; for the purchase and lease of real property, and for all matériel and equipment under its cognizance when technical plans and nonstandard specifications are involved. All acquisitions of private and public real property by lease or otherwise, whether directly by the Navy or through the Contractor who is to be reimbursed directly or indirectly with naval funds, are processed through the Bureau of Yards and Docks to the Armed Forces Committee of the Congress.

(g) *Office of Naval Research.* The Office of Naval Research contracts for research, experimental, and developmental work; for reports, models, apparatus, and tests in connection therewith; for the manufacture or furnishing of supplies for research, development, experimentation, or testing; and for the procurement, installation, and maintenance of training devices, and the procurement of spare parts and operational instructions connected therewith.

§ 30.3 *The Bureau of Supplies and Accounts and its field activities—(a) The*

Bureau of Supplies and Accounts. The Bureau of Supplies and Accounts is responsible, on its own initiative and based upon its own estimates, for the purchase of clothing, provisions, ship's stores stock, fuel and lubricants, and general stores. Upon the initiation of requisitions by the technical bureaus or field activities, the Bureau of Supplies and Accounts and its field purchasing activities also procure services and items for which it has been assigned procurement responsibility.

(b) *Field purchasing activities under the cognizance of the Bureau of Supplies and Accounts.* All naval activities having a regularly organized Supply Department are authorized to purchase matériel and services, subject to the limitations established by the Bureau of Supplies and Accounts or the Commandant of the Naval District. These purchasing activities are under the cognizance of the Bureau of Supplies and Accounts which promulgates purchasing policies and instructions in the field; reviews requisitions and other purchasing documents designated for field action to insure conformance with procurement policies; and acts as liaison between field purchasing activities, the other bureaus and offices of the Navy Department and other Government departments. The maximum dollar limit authorized for purchases by these activities will vary from \$25 to an unlimited amount dependent on the size of the activity and proximity to a central procurement office. The latter activities are strategically located throughout the country and are organized to effect any type of procurement assigned them. The major central procurement activities are located in New York, Norfolk, Charleston, Miami, Jacksonville, New Orleans, Chicago, Los Angeles, San Francisco, and Seattle. In addition, the Naval Supply Depot, Mechanicsburg, Pa., procures spare parts for ship hulls and machinery and for all internal combustion engines. Additionally, specific delegations of authority for particular procurements are, from time to time, made by the Bureau of Supplies and Accounts and the technical bureaus.

(c) *Delegation of authority within a purchasing activity.* Officers in Charge of Navy Purchasing Offices, Supply Offices in Command of Naval Supply Depots, and Supply Officers of ships or shore activities are authorized to sign contractual documents. These officers designate in writing the junior officers who are authorized to sign purchase documents. These authorizations are available for information purposes at all times.

§ 30.4 *Headquarters, Marine Corps.* Headquarters, Marine Corps, contracts for material required by the Marine Corps, not procured through Bureaus of the Navy.

PART 31—NAVY PROCUREMENT REGULATION

SUBPART A—GENERAL PROVISIONS

Introductory Material

- Sec.
 31.110 Scope of §§ 31.110 to 31.117.
 31.111 Purpose of part.
 31.112 Applicability of part.
 31.113 Arrangement of part.
 31.113-1 General plan.
 31.113-2 Numbering (not applicable to document as printed).
 31.113-3 Cross references.
 31.113-4 Citation.
 31.114 Amendment of part.
 31.115 Instructions under part.
 31.116 Deviations from part.
 31.117 Legal approval and interpretation.

Definitions of Terms

- 31.121 Definitions.
 31.121-1 Navy Department.
 31.121-2 Secretary.
 31.121-3 Office of the General Counsel.
 31.121-4 Bureau.
 31.121-5 Chief of a Bureau.
 31.121-6 Chief Officer Responsible for Procurement.
 31.121-7 Contracting Officer.
 31.121-8 Contracts.
 31.121-9 Procurement.
 31.121-10 Supplies.
 31.121-11 Services.
 31.121-12 Sources of supply.

Basic Policies

- 31.130 Scope of §§ 31.130 to 31.134.
 31.131 Methods of procurement.
 31.132 Sources of supply.
 31.132-1 Government agencies.
 31.132-2 Sources outside the Government.
 31.132-3 Small business concerns.
 31.132-4 Foreign purchases.
 31.133 Ineligible contractors.
 31.133-1 Additions to and removals from the List of Ineligible Contractors.
 31.134 Types of contracts.

Procurement Responsibility and Authority

- 31.140 Scope of §§ 31.140 to 31.147.
 31.141 Departmental responsibility.
 31.142 Bureau responsibility.
 31.143 Responsibility of Bureau of Supplies and Accounts.
 31.144 General authority of Contracting Officers.
 31.145 Limitations upon authority to enter into contracts.
 31.146 Special limitations upon authority to enter into negotiated contracts.
 31.147 Legal approval of contracts.

SUBPART B—PROCUREMENT BY ADVERTISING

- 31.200 Scope of subpart.

Use of Advertising

- 31.210 Scope of §§ 31.210 to 31.213.
 31.211 Meaning of advertising.
 31.212 Use of advertising.
 31.213 General limitations upon use of advertising.

Solicitation of Bids

- 31.220 Scope of §§ 31.220 to 31.223-4.
 31.221 Prescribed forms.
 31.221-1 Contracts other than Public Works Contracts.
 31.221-2 Public Works Contracts.
 31.221-3 Availability of forms.
 31.222 Preparation of forms.
 31.222-1 Contracts other than Public Works Contracts.
 31.222-2 Public Works Contracts.
 31.223 Methods of soliciting bids.
 31.223-1 Mailing to potential suppliers.

Sec.

- 31.223-2 Publication in newspapers.
 31.223-3 Publication in trade journals.
 31.223-4 Displaying in public place.

Submission of Bids

- 31.220 Scope of §§ 31.220 to 31.223-4.
 31.231 Method of submission.
 31.232 Time of submission.
 31.233 Modification or withdrawal of bids.

Opening of Bids and Award of Contract

- 31.240 Scope of §§ 31.240 to 31.246.
 31.241 Opening of bids.
 31.242 Recording of bids.
 31.243 Rejection of bids.
 31.244 Mistakes in bids.
 31.245 Award of contract.
 31.245-1 Responsible bidder.
 31.245-2 Other factors to be considered.
 31.245-3 Equal bids.
 31.245-4 Acceptable List of Approved Materials.
 31.246 Certificate of award.

Forms

- 31.250 Forms.

SUBPART C—PROCUREMENT BY NEGOTIATION

- 31.300 Scope of subpart.

Use of Negotiation

- 31.310 Scope of §§ 31.310 to 31.313-21.
 31.311 Negotiation as distinguished from advertising.
 31.312 General limitations upon use of negotiation.
 31.313 Circumstances permitting negotiation.
 31.313-1 National emergency.
 31.313-2 Public exigency.
 31.313-3 Purchase not in excess of \$1,000.
 31.313-4 Personal or professional services.
 31.313-5 Services of educational institutions.
 31.313-6 Purchases outside the United States.
 31.313-7 Medicines or medical supplies.
 31.313-8 Supplies purchased for authorized resale.
 31.313-9 Perishable subsistence supplies.
 31.313-10 Supplies or services for which it is impracticable to secure competition.
 31.313-11 Experimental, developmental, or research work.
 31.313-12 Classified purchases.
 31.313-13 Technical equipment requiring standardization and interchangeability of parts.
 31.313-14 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.
 31.313-15 Negotiation after advertising.
 31.313-16 Purchases in the interest of national defense or industrial mobilization.
 31.313-17 Construction work.
 31.313-18 Transportation services.
 31.313-19 Architectural or engineering services.
 31.313-20 Services of experts or consultants.
 31.313-21 Otherwise authorized by law.

Determinations and Findings

- 31.320 Scope of §§ 31.320 to 31.328.
 31.321 Nature of determinations and findings.
 31.322 Determinations and findings by the Secretary.
 31.323 Determinations and findings by a Chief Officer Responsible for Procurement.
 31.324 Determinations and findings by a Contracting Officer.
 31.325 Forms of determinations and findings.
 31.325-1 Authority to negotiate individual contracts.
 31.325-2 Authority to negotiate classes of contracts.

Sec.

- 31.325-3 Advance payments.
 31.325-4 Method of contracting.
 31.325-5 Other determinations.
 31.326 Procedure with respect to determinations and findings.
 31.326-1 Determinations and findings by the Secretary.
 31.326-2 Determinations and findings by a Chief Officer Responsible for Procurement.
 31.326-3 Determinations and findings by a Contracting Officer.
 31.327 Distribution of copies of determinations and findings.
 31.328 Retention of copies of determinations and findings, and of other records.

Types of Contracts

- 31.330 Scope of §§ 31.330 to 31.333.
 31.331 Approved types of contracts.
 31.331-1 Fixed-price contract.
 31.331-2 Cost contract.
 31.331-3 Cost-plus-fixed-fee contract.
 31.331-4 Incentive-type contract.
 31.331-5 Purchase order.
 31.331-6 Letter of Intent.
 31.332 Selection of type of contract.
 31.332-1 Use of cost contracts, cost-plus-fixed-fee contracts, or incentive-type contracts.
 31.332-2 Use of purchase orders.
 31.332-3 Use of letters of intent.
 31.333 Contract forms and clauses.

Advance Payments

- 31.340 Scope of §§ 31.340 to 31.348.
 31.341 Nature of advance payments.
 31.342 General authority to make advance payments.
 31.343 Limitations upon authority to make advance payments.
 31.344 Interest on advance payments.
 31.345 Requests for advance payments.
 31.346 Responsibility of the Fiscal Director.
 31.347 Responsibility of cognizant bureau.
 31.348 Amendments and deviations.

SUBPART D—PROCUREMENT WITHIN THE GOVERNMENT

Single Department Procurement

- 31.410 Scope of §§ 31.410 to 31.418.
 31.411 Requiring Department and Purchasing Department.
 31.412 Execution and administration of contracts.
 31.413 Specifications.
 31.414 Funds and payments.
 31.415 Inspection.
 31.416 Transportation of materials.
 31.417 Transfer of existing contracts.
 31.417-1 Effect of assignment of procurement responsibilities.
 31.417-2 Disputes under transferred contracts.
 31.417-3 Successors to Navy contracting officers.
 31.417-4 Successors to Army or Air Force contracting officers.
 31.418 Administrative costs.

Procurement From or by Means of Another Federal Agency

NOTE: Sections under the above headnote reserved.

Procurement Within the Navy Department
 NOTE: Sections under the above headnote reserved.

SUBPART E—CLEARANCE

- 31.500 Scope of subpart.

Contracts That Require Clearance

- 31.511 Scope of §§ 31.511 to 31.516.
 31.512 Meaning of clearance.
 31.513 Contracts requiring clearance.
 31.514 Contracts requiring reports after execution.

- Sec.
31.515 Special requirements as to letters of intent.
31.516 Contracts for electric power, gas, water, and other utility services.

Procedure for Obtaining Clearance

- 31.520 Scope of §§ 31.520 to 31.524.
31.521 Request for clearance.
31.522 Accompanying statement of determination and findings.
31.523 Other accompanying statements and supporting data.
31.524 Forms.

SUBPART F—BONDS

NOTE: Subpart F reserved.

APPENDIX A—H. R. 1366.

APPENDIX B—Laws relating to paid advertisements in newspapers.

APPENDIX C—Standard forms and procedures for Government advertising.

AUTHORITY: §§ 31.110 to 31.524, inclusive, issued under act of July 14, 1862, ch. 164, sec. 5, 12 Stat. 565; 34 U. S. C. 591.

SUBPART A—GENERAL PROVISIONS

Introductory Material

§ 31.110 *Scope of §§ 31.110 to 31.117.* Sections 31.110 to 31.117, inclusive, set forth (a) introductory material pertaining to this part (its purpose, applicability, and arrangement) and (b) instructions for amending, implementing, and deviating from this part.

§ 31.111 *Purpose of part.* This part, issued by the Secretary of the Navy, establishes for the Navy Department uniform policies and procedures for the procurement of supplies and services. Although procurement by advertising or by negotiation continues to be authorized by the First War Powers Act of 1941 and Executive Order 9001 (which authority shall continue to be set forth in all contracts executed under this part or other existing directives until such act and order expire or are terminated), the exercise of that authority is hereby limited, as hereinafter provided, to the procurement principles and restrictions expressed in H. R. 1366, presently pending before the 80th Congress, a copy of which bill is annexed hereto as Appendix A.

§ 31.112 *Applicability of part.* This part shall apply to all Navy Department contracts (as defined in § 31.121-8) for the procurement of supplies or services which obligate appropriated funds (including available contract authorizations) and with respect to which invitations for Bids or Requests for Quotations are issued on or after 1 January 1948, which shall be the effective date of this part; but it is recommended that this part be complied with, to the extent practicable, from the date of its issuance. Rules, regulations, and directives not in conflict with this part shall remain in full force and effect until superseded by or incorporated in this part by amendment. This part is not intended to cover detailed implementing instructions of the respective Bureaus, all of which instructions may be prescribed, as provided in § 31.115, by the Chief of any Bureau.

§ 31.113 *Arrangement of part.*

§ 31.113-1 *General plan.* This part, for the present, is intended to cover only the broad requirements and procedures

with respect to procurement by advertising and procurement by negotiation. For that reason, Subparts A to F, of this part, which establish the policies and procedures for procurement within the framework of H. R. 1366, presently pending before the 80th Congress, are the only subparts now being promulgated. It is intended, however, to supplement this part from time to time by the issuance of additional subparts relating to such matters as peacetime termination procedures and uniform contract provisions. It is also intended, in the near future, that this part will be combined with the Army Procurement Regulations to form a Joint Procurement Regulation which will be applicable to the Departments of the Army, Navy, and Air Force.

§ 31.113-2 *Numbering (not applicable to document as printed).* The numbering of individual paragraphs is not consecutive, and is designed to permit subsequent insertion of additional paragraphs within the appropriate Section and Part. The number of a particular paragraph indicates the Section and Part where it is found and also indicates whether it is subordinate to a preceding paragraph. The first digit of the number of a particular paragraph indicates the Section, and the second digit the part, in which the paragraph is found. Where the number of a paragraph ends with a digit preceded by a decimal point (as 113.2), this indicates that it is part of the general subject covered by the basic paragraph (as 113).

NOTE: In the document as printed "paragraph," as used in § 31.113-2, appears as a code section, "Section" as a code subpart, and "Part" as an italic center headline over a group of code sections. This Section I of the original document appears herein as Subpart A, Part 1 of Section I as §§ 31.110 to 31.117, inclusive, and paragraph 110 as § 31.110.

§ 31.113-3 *Cross references.* Unless specifically stated otherwise, cross references in this part indicate sections or subparts of this part.

§ 31.113-4 *Citation.* This part may be referred to as the Navy Procurement Regulation, and any paragraph may be cited as NPR followed by the paragraph number. Thus, this paragraph may be cited as NPR 113.4.

NOTE: As codified herein such citations are translated into CFR section numbers. NPR 113.4 would appear as § 31.113-4. (See note following § 31.113-2.)

§ 31.114 *Amendment of part.* This part may be amended from time to time by the Secretary. Recommendations for amendments shall be submitted to the Chief, Material Division, Executive Office of the Secretary of the Navy (hereinafter in this part referred to as "the Material Division"). Unless otherwise specifically provided in any amendment, compliance therewith shall not be mandatory until thirty days after the date of its issuance, although compliance shall be authorized from such date.

§ 31.115 *Instructions under part.* The Chief of any Bureau may implement this part by prescribing for his Bureau (and for field activities thereof) detailed instructions which are not inconsistent

with this part. Copies of such instructions shall be forwarded to the Material Division.

§ 31.116 *Deviations from part.* Deviations from the requirements of this part shall be made only by and with the approval of the Material Division.

§ 31.117 *Legal approval and interpretation.* All amendments, instructions, and deviations referred to in §§ 31.114, 31.115, and 31.116 shall first be approved as to form and legality by the Office of the General Counsel. Said office shall, in addition, be responsible for all questions of legal interpretation of this part.

Definitions of Terms

§ 31.121 *Definitions.* As used in this part, the following terms shall have the meanings set forth below:

§ 31.121-1 *Navy Department.* The term "Navy Department" includes the following: The Department of the Navy at the seat of Government; the headquarters, United States Marine Corps; all field offices and other activities under the control or supervision of the Navy Department.

§ 31.121-2 *Secretary.* The term "Secretary" means the Secretary, Under Secretary, Assistant Secretary, or Assistant Secretary for Air of the Navy Department.

§ 31.121-3 *Office of the General Counsel.* The term "Office of the General Counsel" means such office in the Executive Office of the Secretary, and includes any member thereof and any Counsel or Assistant Counsel for any Bureau or Office of the Navy Department.

§ 31.121-4 *Bureau.* The term "Bureau" includes each Bureau of the Navy Department, the Office of Naval Research, the Aviation Supply Office, and the United States Marine Corps.

§ 31.121-5 *Chief of a Bureau.* The term "Chief of a Bureau" includes the Chief of each Bureau, the Chief of Naval Research, the Aviation Supply Officer, and the Commandant of the United States Marine Corps.

§ 31.121-6 *Chief Officer Responsible for Procurement.* The term "Chief Officer Responsible for Procurement" means the Chief of any Bureau.

§ 31.121-7 *Contracting Officer.* The term "Contracting Officer" includes the Chief of each Bureau, and any other officer or civilian employee of such Bureau (or any of its field activities) to whom has been or shall be delegated, by the Secretary or by the Chief of any Bureau, the authority to enter into contracts and make determinations and findings with respect thereto, or any part of such authority, as hereinafter provided. All persons in the Navy Department who, at the date of issuance of this part, are properly constituted and authorized Contracting Officers, by whatever means such authority was theretofore delegated, shall be deemed to be Contracting Officers within the meaning of that term as used throughout this part.

§ 31.121-8 *Contracts.* The term "contracts" means all types of agreements

for the procurement of supplies or services. It includes, by way of description and without limitation, awards and preliminary notices of award (the meaning of each of which terms is limited in this part to awards made in connection with procurement by advertising), letters of intent, purchase orders, job orders, and task orders or task letters; it also includes such amendments, modifications, and change orders to any of the foregoing as provide for the new procurement of supplies or services which requires the obligation of current appropriations.

§ 31.121-9 *Procurement*. The term "procurement" includes, by way of description and without limitation, purchasing, renting, leasing, or otherwise obtaining supplies or services.

§ 31.121-10 *Supplies*. The term "supplies" means all property except land, or interests in land. It includes, by way of description and without limitation, public works, buildings, facilities; ships, floating equipment, and vessels of every character, type and description, together with parts and accessories thereto; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing.

§ 31.121-11 *Services*. The term "services" includes, by way of description and without limitation, personal or professional services of individuals or organizations; educational or training services; architectural or engineering services; maintenance or repair; stevedoring or warehousing; transportation; utility services; experimental, developmental, or research work; and construction work.

§ 31.121-12 *Sources of supply*. The term "sources of supply" shall include only manufacturers of or regular dealers in the supplies to be procured. A "regular dealer" shall be deemed to be either (a) a person or firm regularly carrying a stock of the supplies being procured, and having a warehouse or place of business from which sales are made; or (b) a bona fide manufacturer's agent regularly employed on a salary or commission basis by one or more manufacturers of the supplies being procured, provided such agent has authority to bind the manufacturer.

Basic Policies

§ 31.130 *Scope of §§ 31.130 to 31.134*. Sections 31.130 to 31.134, inclusive, set forth the general procurement policies of the Navy Department with respect to (a) methods of procurement, (b) sources of supply (including governmental and foreign purchases), (c) ineligible contractors, and (d) types of contracts.

§ 31.131 *Methods of procurement*. The two principal methods of procurement are by means of advertising and by means of negotiation. Procurement shall generally be effected by advertising for bids and thereafter awarding a contract to the lowest responsible bidder, all in accordance with the detailed requirements and procedures set forth in Subpart B of this part. Procurement may be effected by negotiation, however, when authorized by and conducted in accordance with the detailed requirements and

procedures set forth in Subpart C of this part. Procurement may also be effected, as provided in Subpart D of this part, by placing orders with any Government agency or Government-owned establishment, or by means of joint or single-department procurement.

§ 31.132 *Sources of supply*.

§ 31.132-1 *Government agencies*. To the extent possible, supplies shall be obtained from surplus property in the hands of disposal agencies, or from surplus or excess stocks in the hands of other Government agencies (especially the Army and the Air Force).

§ 31.132-2 *Sources outside the Government*. Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by advertising or by negotiation, competitive proposals ("bids" in the case of procurement by advertising, "quotations" in the case of procurement by negotiation) shall be solicited from such qualified sources of supply or services as are deemed necessary by the Contracting Officer to assure full and free competition consistent with the procurement of the required supplies or services. In each instance, unless circumstances make it impracticable, proposals should be obtained from at least three sources.

§ 31.132-3 *Small business concerns*. It shall be the policy of the Navy Department to place with small business concerns (herein considered to be any concern which employs fewer than 500 persons) a fair proportion of the total procurement of supplies and services for the Navy Department. As a means of carrying out this policy, and when not to the manifest disadvantage of the Navy Department, the supplies or services to be procured shall be divided into lots small enough to permit and encourage small business concerns to make bids or quotations thereon.

§ 31.132-4 *Foreign purchases*. The provisions of the Buy-American Act (Act of March 3, 1933; 41 U. S. Code 10a) shall apply to the procurement of supplies for the Navy Department. Accordingly, Bureaus may procure only such supplies, and all construction contracts may permit the use of only such materials, as have been mined, produced, or manufactured inside the United States (hereinafter in this section being deemed to include any place subject to the jurisdiction of the United States) or such as have been manufactured inside the United States substantially all from any materials mined, produced, or manufactured inside the United States, unless:

(a) The supplies are to be used outside the United States; or

(b) The supplies or materials are not available in the United States in sufficient quantity or of satisfactory quality, in the opinion of the Secretary; or

(c) Compliance with the restrictions of this section would be inconsistent with the public interest or would unreasonably increase the cost, in the opinion of the Secretary, (it being hereby administratively determined that the cost of the domestic product is unreasonable whenever it exceeds the cost of the foreign product, including duty, by more

than 25% (100% in the case of foreign bids of \$100 or less) of the cost of the foreign product exclusive of duty).

Specific exemptions, or class exemptions, previously granted by the Secretary under the Buy-American Act, shall continue in effect under this part. Any request for further exemption shall be made to the Material Division.

§ 31.133 *Ineligible contractors*. The Bureau of Supplies and Accounts shall maintain, and shall make available to all Bureaus, a current list (classified Restricted) to be known as the "List of Ineligible Contractors", which list shall (1) comprise the following different groups of persons and firms, (2) indicate the reason for placing each person or firm on such list, and (3) indicate the extent to which each Bureau is restricted in its dealings with any person or firm on such list:

(a) Persons and firms listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healey Public Contracts Act (Act of June 30, 1936; 41 U. S. Code 35) which have been found by the Secretary of Labor to have violated any of the agreements or representations required by that act.

(b) Persons and firms listed by the Department of Labor which have been held ineligible to be awarded contracts subject to the Walsh-Healey Public Contracts Act (that is, any contract for supplies in an amount exceeding \$10,000) for the reason that they do not qualify as "manufacturers" or "regular dealers" within the meaning of section 1 (a) of said act.

(c) Persons and firms listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (Act of March 3, 1931; 40 U. S. C. 276a) found by the Comptroller General to have violated said act.

(d) Contractors who have defaulted on, or who have violated security regulations with respect to, contracts with any one or more of the Bureaus, or have been determined to be guilty of fraud or attempted fraud against the Government.

§ 31.133-1 *Additions to and removals from the List of Ineligible Contractors*. Contractors names may be placed on or removed from the List of Ineligible Contractors only pursuant to recommendations by the Chief of any Bureau for such action, which recommendations shall state in detail the reasons in support thereof.

§ 31.134 *Types of contracts*. Only the fixed-price or lump-sum type of contract shall be used for procurement by advertising. For procurement by negotiation, it shall be the general practice for the fixed-price type of contract to be used, although under such method of procurement it shall be permissible to use a cost or cost-plus-a-fixed-fee type of contract or an incentive type of contract whenever any one of these alternative methods of contracting is likely to be less costly than the fixed-price method, or whenever it would be impracticable to procure supplies or services of the kind or quality required without the use of any of these alternative methods of contracting.

Procurement Responsibility and Authority

§ 31.140 *Scope of §§ 31.140 to 31.147.* Sections 31.140 to 31.147, inclusive, deal with the procurement responsibility and authority of (a) the Secretary, (b) the Chief of each Bureau, and (c) Contracting Officers; and prescribe the limits of contracting authority delegated by this part.

§ 31.141 *Departmental responsibility.* The Secretary is responsible for the procurement policies and activities of the Navy Department. It is the responsibility of the Material Division, in addition to its other responsibilities under this part and existing directives,

(a) To represent the Navy Department with respect to the coordination of procurement by the Departments of the Army, Navy and Air Force; and

(b) To allocate to a single Bureau the responsibility for the procurement of any item required by two or more Bureaus.

§ 31.142 *Bureau responsibility.* Except as provided in §§ 31.141 and 31.143, the Chief of each Bureau is responsible for the procurement of supplies and services under the technical cognizance of his Bureau, and for determining the extent to which such procurement will be carried out in his Bureau and the extent to which the Bureau of Supplies and Accounts will be requested, by requisition or otherwise, to carry out such procurement. The Chief of each Bureau is hereby designated a Contracting Officer within the meaning of that term as used throughout this part, and is authorized to delegate all or any part of his contracting authority to such person or persons as he may select and designate as Contracting Officers.

§ 31.143 *Responsibility of Bureau of Supplies and Accounts.* The Bureau of Supplies and Accounts is responsible for conducting the formalities with respect to all procurement by advertising (including solicitation of bids, custody and opening of bids, and award of contracts) except with respect to the following:

(a) Purchases made by any field activity to which purchase responsibilities have been assigned;

(b) Marine Corps purchases;

(c) Construction contracts of the Bureau of Yards and Docks; and

(d) Such other contracts as in the opinion of the Contracting Officer of any Bureau should be awarded by such Bureau after bids have been solicited, received, and opened by the Bureau of Supplies and Accounts.

The Bureau of Supplies and Accounts is also responsible for the procurement of all common-use items which are or shall be listed in the General Stores Section of the Catalog of Naval Material.

§ 31.144 *General authority of Contracting Officers.* In accordance with the provisions of §§ 31.142 and 31.143, and subject to the limitations prescribed in §§ 31.145, 31.146, and 31.147, the Chief of each Bureau, and any other Contracting Officer, is hereby authorized to enter into contracts on behalf of the Government and in the name of the United States of America, whether by advertising or by

negotiation or by procurement within the Government as hereinafter provided, for supplies or services under the technical cognizance of his Bureau.

§ 31.145 *Limitations upon authority to enter into contracts.* Irrespective of whether procurement is to be effected by advertising or by negotiation, no contract shall be entered into unless:

(a) All applicable requirements of law and of this part have been met; and

(b) Such clearance as is prescribed in Subpart E has been obtained.

§ 31.146 *Special limitations upon authority to enter into negotiated contracts.* In addition to the limitations set forth in § 31.145, no contract shall be entered into as a result of negotiation until the necessary determinations and findings with respect to the circumstance permitting negotiation and with respect to the use of a special type of contract have been made by the persons and in the manner prescribed in §§ 31.320 to 31.333, inclusive.

§ 31.147 *Legal approval of contracts.* The Office of the General Counsel shall approve as to form and legality all contracts to be entered into by any Bureau. Any such contract may be executed by a Contracting Officer without securing further approval as to form or legality.

SUBPART B—PROCUREMENT BY ADVERTISING

§ 31.200 *Scope of subpart.* This subpart sets forth (a) the requirements and procedures for the procurement of supplies and services by means of advertising and (b) detailed instructions with respect to (1) solicitation of bids, (2) submission of bids, and, (3) opening of bids and award of contract.

Use of Advertising

§ 31.210 *Scope of §§ 31.210 to 31.213.* Sections 31.210 to 31.213, inclusive, deal with the general use of advertising and with the general limitations imposed upon that use.

§ 31.211 *Meaning of advertising.* As used throughout this part, advertising means that method of procurement which follows the formal procedures prescribed in this subpart with respect to competitive bids and awards.

§ 31.212 *Use of advertising.* In accordance with the basic policies set forth in §§ 31.130 to 31.134, inclusive, procurement of supplies and services for the Navy Department shall generally be effected by advertising. Bids shall be solicited or invited from such qualified sources of supply or services as are deemed necessary by the Contracting Officer to assure full and free competition consistent with the procurement of the required supplies or services. Current lists of qualified and responsible suppliers shall be maintained by each Bureau and field purchasing activity.

§ 31.213 *General limitations upon use of advertising.* No contract shall be entered into as a result of advertising until and unless all of the following requirements have been satisfied:

(a) Bids have been solicited in accordance with the requirements of §§ 31.220 to 31.223-4, inclusive;

(b) Bids have been submitted in accordance with the requirements of §§ 31.230 to 31.233, inclusive;

(c) Award has been made to that responsible bidder whose bid, conforming to the Invitation for Bids, will be most advantageous to the Government, price and other factors considered, as prescribed in §§ 31.240 to 31.246, inclusive; and

(d) Such clearance as is prescribed in Subpart E of this part has been obtained.

Solicitation of Bids

§ 31.220 *Scope of §§ 31.220 to 31.223-4.* Sections 31.220 to 31.223-4, inclusive, cover the following matters with respect to the solicitation of bids: (a) The forms to be used; (b) the preparation of these forms; and (c) methods of soliciting bids.

§ 31.221 Prescribed forms.

§ 31.221-1 *Contracts other than Public Works Contracts.* For all contracts to be entered into by advertising, other than contracts for the construction, alteration, repair, or maintenance of Public Works (hereinafter referred to as "Public Works Contracts"), the following forms shall be used in connection with the solicitation of bids:

(a) Invitation for Bids (Navy Form 33 (1));

(b) Bid (Navy Form 33 (2));

(c) Schedule (Navy Form 33 (3));

(d) General Provisions (Navy Form 33 (4); or NavSanda Forms 90 (2) and 102 (2) or 102 (2A); or any other standard form of General Provisions currently in use under SecNav Directive dated 25 January 1946).

§ 31.221-2 *Public Works Contracts.* For Public Works Contracts to be entered into by advertising, the forms to be used in connection with the solicitation of bids shall be such forms as are prescribed by the Chief of the Bureau of Yards and Docks.

§ 31.221-3 *Availability of forms.* Until revised forms have been printed and circulated for use by all procurement activities, the forms set forth or referred to in § 31.250 shall be reproduced locally and used.

§ 31.222 Preparation of forms.

§ 31.222-1 *Contracts other than public Works Contracts.* The prescribed forms to be used in connection with the solicitation of bids shall contain the following information:

(a) Invitation for bids, Navy Form 33 (1):

(1) Invitation number. This is a code number, to be placed in the upper right corner of the Invitation, indicating the station accounting number of the activity issuing the invitation (if assigned), followed by a dash and the serial number of the particular invitation.

(2) Name and address of issuing activity (Purchasing Office, Supply Office, Division or Branch of Bureau, etc.).

(3) Date of issuance.

(4) Date, hour, and place of opening.

(b) Bid, Navy Form 33 (2): Blanks to be filled in by bidder, and bid to be executed as noted on the form and in accordance with Instructions to Bidders on re-

verse of Invitation for Bids, Navy Form 33 (1).

(c) Schedule, Navy Form 33 (3):

(1) Number of Schedule pages.

(2) Requisition, appropriation, and accounting data.

(3) Submission of invoices by contractor, and place of payment.

(4) Removal of or changes in discount provisions whenever it is expected that prompt-payment discounts cannot be taken according to the time schedule set forth in the form.

(5) Description and quantity of supplies or services to be furnished under each item. Description may be by reference to specifications, drawings, brand or trade name (used descriptively and not restrictively), or any other adequate method; and may or may not require the bidder to submit samples, cuts, or catalog descriptions.

(6) Specifications. These should contain only the essential or minimum requirements, in order not to limit competition; and whenever possible, should permit alternative materials or designs, although generally with the right reserved to reject such alternatives if they would not result in supplies or services suitable for the purposes intended. Whenever specifications require prior testing and approval of materials, the right to reject materials not meeting this requirement must be expressly reserved.

(7) Time, place, and method of delivery.

(8) Permission (if any) to submit telegraphic bids.

(9) Permission (if any) to submit alternative bids.

(10) Requirement, in the case of an Invitation for Bids for the construction of a vessel, that the bidder file with his bid the estimates on which the bid is based.

(11) Packing requirements.

(12) Place, method, and conditions of inspection.

(13) Bond and surety requirements, if any; see Subpart F of this part.

(14) Special provisions, inconsistent with or not covered by the General Provisions, relating to such matters as Buy-American restrictions, Government-furnished equipment or material, progress payments, patent licenses, liquidated damages, profit limitations, etc., *Provided*, That any such special provisions are authorized by existing directives.

(15) Indication of those General Provisions, if any, which shall not apply.

§ 31.222-2 *Public Works Contracts*. The prescribed forms to be used in connection with the solicitation of bids for Public Works Contracts shall be prepared in the manner, and contain the information, prescribed by the Chief of the Bureau of Yards and Docks.

§ 31.223 *Methods of soliciting bids*. After the prescribed forms have been filled out in accordance with the requirements of § 31.222, bids shall be solicited by such of the following methods as are deemed necessary by the Contracting Officer in order to assure full and free competition:

- (a) Mailing to potential suppliers;
- (b) Publication in newspapers;
- (c) Publication in trade journals;
- (d) Displaying in public place.

In any event, bids shall be solicited sufficiently in advance of the opening of bids to allow suppliers an adequate opportunity to prepare and submit their bids. Solicitation of bids under Public Works Contracts shall be made as prescribed by the Chief of the Bureau of Yards and Docks.

§ 31.223-1 *Mailing to potential suppliers*. Solicitation shall generally be made by mail, in which case three copies of each of the Navy Forms 33 (1), 33 (2), 33 (3), and 33 (4) shall be filled out and sent to each prospective supplier from whom a bid is being solicited.

§ 31.223-2 *Publication in newspapers*. The essential details of any proposed purchase may be made available to newspapers for free publication. Paid advertisements in newspapers shall generally not be used; but if the Chief of any Bureau (to whom is hereby delegated the authority to publish paid advertisements in newspapers) deems it necessary in order to secure effective competition, a brief announcement of the proposed purchase may be inserted in newspapers as paid advertisements, subject to the following conditions:

(a) All applicable requirements of law have been met (set forth in Appendix B hereto);

(b) The advertisement shall be prepared in accordance with General Regulations No. 109, issued December 20, 1946 by the General Accounting Office (copy of which is annexed hereto as Appendix C);

(c) The advertisement shall be inserted not less than four times in daily papers or twice in weekly papers, but in no event after the day preceding the date fixed for the opening.

§ 31.223-3 *Publication in trade journals*. A brief announcement of the proposed purchase may be made available to trade journals or magazines whose subscribers are manufacturers or dealers in the supplies or services being procured.

§ 31.223-4 *Displaying in public place*. Copies of each solicitation of bids, consisting of Navy Forms 33 (1), 33 (2), 33 (3), and 33 (4), shall be filled out and maintained in a central place, or posted on bulletin boards, at the purchasing activity or at some other official location in the vicinity.

Submission of Bids

§ 31.230 *Scope of §§ 31.230 to 31.233*. Sections 31.230 to 31.233, inclusive, deal with (a) the method and time of submitting bids, and (b) the method and time of modifying or withdrawing bids.

§ 31.231 *Method of submission*. The bid shall be filled out and executed by the bidder in accordance with the instructions accompanying the appropriate bid form. Neither telegraphic nor alternative bids shall be considered unless authorized in the schedule attached to the Invitation for Bids.

§ 31.232 *Time of submission*. Bids shall be submitted in duplicate in sufficient time to reach the purchasing activity prior to the time fixed for opening. Bids received after the time fixed for

opening are late bids (the exact date and hour of mailing which, as shown by the cancellation stamp or by the stamp of an approved metering device, shall be recorded). Such bids either:

(a) Will be considered, provided they are received before the award has been made, and provided the failure to arrive on time was due solely to a delay in the mails for which the bidder was not responsible; or

(b) Will be held unopened until the time of award and then returned to the bidder.

§ 31.233 *Modification or withdrawal of bids*. Bids may be modified or withdrawn, at any time prior to the opening thereof, by written or telegraphic notice. After the opening of bids, no bid may be modified (except for apparent mistakes, as provided in § 31.244) or withdrawn unless such modification or withdrawal is received before the award has been made and either (a) its failure to arrive prior to the time fixed for opening was due solely to a delay in the mails for which the bidder was not responsible, or (b) modification is in the interest of the Government and not prejudicial to the other bidders.

Opening of Bids and Award of Contract

§ 31.240 *Scope of §§ 31.240 to 31.246*. Sections 31.240 to 31.246, inclusive, deal with (a) the opening and recording of bids, the rejection of bids, and mistakes in bids; and (b) the requirements and procedures to be followed with respect to the award of a contract.

§ 31.241 *Opening of bids*. All bids received prior to the time of opening will be kept secure and unopened until the time of opening, whereupon they shall be publicly opened and read aloud, by the Government official whose duty it is to open the bid, in the presence of at least three persons. The original bids shall not be allowed to pass out of the hands of an official of the Government, except when a duplicate bid cannot be made available for public inspection, and then only under the immediate supervision of an official of the Government and under conditions which preclude the possibility of a substitution, addition, deletion, or alteration in the bid.

§ 31.242 *Recording of bids*. The names of the bidders and the prices bid shall be entered in a permanent record which shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the opening date, invitation number, general description of the material, schedule number, lot number, and total bid price. As soon as all bids have been opened and read, the official in charge shall make the following certification in the permanent record immediately below the last bidder's name:

I hereby certify that I have personally opened all bids, and that all bids have been entered above.

§ 31.243 *Rejection of bids*. Any bid which does not conform to the essential requirements of the Invitation for Bids shall be rejected. All bids may be rejected (a) when rejection is in the in-

terest of the Government, or (b) when the official authorized to make the award finds in writing that the bids are not reasonable, or had not been independently arrived at in open competition, or are collusive, or had been submitted in bad faith. The originals of all rejected bids, and any written findings with respect to rejection, shall be preserved with the papers relating to the proposed purchase.

§ 31.244 *Mistakes in bids.* Apparent mistake in bids may be corrected, by the Contracting Officer and upon confirmation by the bidder, after opening and prior to award. The Contracting Officer shall prepare a complete statement of the facts serving as the basis for the correction of the mistake in bids, and this statement shall be preserved with the papers relating to the proposed purchase.

§ 31.245 *Award of contract.* An award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conformity to the Invitation for Bids, will be most advantageous to the Government, price and other factors considered. Award will be effected by mailing or delivering to the supplier a properly executed Award on Navy Form 33 (5), as set forth in § 31.250. Award may also be effected by a preliminary Notice of Award, on such form as shall be prescribed by the Chief of any Bureau, to be followed as soon as possible by the formal Award on Navy Form 33 (5); a copy of any such Notice of Award (containing information as to appropriation number, program number, contract number, amount of money involved, name of contractor, and NCDO number) shall be sent forthwith to the Fiscal Director of the Bureau concerned for the purpose of prompt obligation of funds. Whenever more than one Award or Notice of Award is to be made under any single Invitation (i. e., a "split award"), separate forms shall be filled out and executed, each Form bearing a different contract number. The Award, together with the previously issued Invitation for Bids, Bid, Schedule, and General Provisions, will constitute the contract. In the case of Public Works Contracts, the Award and final contract will be such as are prescribed by the Chief of the Bureau of Yards and Docks.

§ 31.245-1 *Responsible bidder.* A responsible bidder is a bidder who:

- (a) Is qualified and eligible, by law and under this part; and
- (b) Is financially responsible, and able successfully to fulfill the contract requirements.

§ 31.245-2 *Other factors to be considered.* Other factors besides price that may be considered in making an award are the following:

- (a) Judgment, skill, and integrity of a bidder;
- (b) Reputation and experience of a bidder, and prior work of a similar nature done by him;
- (c) Foreseeable costs or delays to the Government resulting from differences in inspection, shipping, location of supplies, etc.;
- (d) Changes made or requested in any of the special or general provisions;

(e) Restrictions or conditions imposed in the Bid; and

(f) Disadvantages to the Government that might result from making split awards.

§ 31.245-3 *Equal bids.* Where two or more bids are equal in all respects (including cost of transportation, cash discounts, and any other factor properly considered), award will be made by lot. The drawing by lot shall be witnessed by at least three persons and may be witnessed by the bidders or their representatives.

§ 31.245-4 *Acceptable List of Approved Materials.* The Acceptable List of Approved Materials, maintained by the Bureau of Supplies and Accounts, comprises certain materials for which an extended test prior to purchase is required by specifications, and indicates those manufacturers whose materials have already been tested and approved. The right to reject materials not on the Acceptable List may not be exercised unless such right of rejection has been reserved in the Schedule, as provided in § 31.222-1 (c) (6). Whenever (a) any specifications for the materials being purchased require prior testing and approval and (b) it is in the interest of the Government to make an award to a bidder who offers material not on the Acceptable List of Approved Materials (whether or not such material has in fact been tested and approved), such an award may be made only after approval of the Bureau having technical cognizance of the material. When rejection is made of the low bid because it offers material which has not been tested and approved, the Statement and Certificate of Award (U. S. Standard Form 1036) will include the following explanation of the rejection:

The low bid of _____ is rejected for the reason that the material offered has not been tested and approved as required by the specifications.

§ 31.246 *Certificate of award.* On every purchase made by advertising there shall be a certificate by the Contracting Officer (on U. S. Standard Form 1036 and attached to the executed originals of the Bid and Award which are forwarded to the General Accounting Office) which either (a) shall state that the accepted bid was the lowest bid received or (b) shall list all lower bids and set forth the reasons for accepting a bid other than the lowest bid. The certificate shall likewise describe the manner in which the requirements of this part as to methods of advertising have been complied with.

Forms

§ 31.250 Forms.

Navy Form 33 (1) Invitation No. _____
 INVITATION FOR BIDS
 Issued by: _____
 (Activity) (Date)

 (Address)

Sealed bids in duplicate, subject to all the terms and conditions specified in this Invitation and in the attached Bid, Schedule, and General Provisions, will be received at

this office until _____ o'clock _____ Standard Time, _____ and at that time (Date)

will be publicly opened, for the furnishing of the supplies or services described in the accompanying Schedule.

The right is reserved, as the interest of the Government may require, to reject any or all bids and to waive any informality in bids received. The Government may accept any items of any bids unless qualified by specific limitation of the bidder. Bids must be enclosed in sealed envelopes addressed to the activity named above, with the name and address of the bidder, the date and hour of opening, and the Invitation Number written at the top left corner of the envelope.

Your attention is directed to the possibility that wage determinations may have been made under the Walsh-Healey Public Contracts Act providing minimum wages for employees engaged in the manufacture for sale to the Government of the supplies covered by this Invitation for Bids. Information in this connection, as well as general information as to the requirements of the Act concerning overtime payment, child labor, safety and health provisions, etc., may be obtained from the Wage and Hour Public Contracts Division, Department of Labor, Washington 25, D. C.

For other instructions, see reverse side hereof.

INSTRUCTIONS TO BIDDERS

1. *Terms.* (a) Prices should be stated per unit, for number of units under each item, and should include packing.

(b) Time of proposed delivery must be stated definitely for each item, or for all items, and calendar days must include Sundays and holidays.

2. *Government-furnished material.* No material or labor shall be furnished by the Government unless provided for in the Schedule.

3. *Samples.* Samples of items, when required, must be submitted prior to the opening of bids and at no expense to the Government; if not destroyed by testing, they will be returned at the bidder's request and expense.

4. *Bonds.* Acceptable security for any bid or contract, when required in the Schedule, will be:

(a) The bond of any surety company authorized by the Secretary of the Treasury to do business, or

(b) Two responsible individual sureties, or

(c) A certified check, or United States bonds or notes. Certified checks, and bonds or notes of the United States deposited by unsuccessful bidders, will be returned as soon as practicable after the opening.

5. *Bids.* (a) Alternative bids will not be considered unless authorized in the Schedule.

(b) Telegraphic bids will not be considered unless authorized in the Schedule, although bids may be modified or withdrawn by telegraphic notice provided such notice is received by the issuing office at any time prior to the opening thereof.

6. *Opening of bids.* Bidders may be present, either in person or by representative, at the public opening of bids.

7. *Award.* (a) The contract shall be awarded to that responsible bidder whose bid, conforming to the Invitation for Bids, will be most advantageous to the Government, price and other factors considered.

(b) The successful bidder will receive Notice of Award at the earliest possible date, and such Award will thereupon constitute a binding contract between the bidder and the Government without further action on the part of the bidder.

RULES AND REGULATIONS

Navy Form 33 (2)

BID

(Date)

In compliance with Invitation for Bids Number _____, dated _____, and subject to all the terms and conditions thereof:

The undersigned _____
(i) A corporation organized and existing under the laws of the State of _____
(ii) A partnership consisting of _____

(Full name)

of all partners)

(iii) An individual trading as _____ whose address is _____ offers, and agrees, if this bid be accepted within _____ calendar days (60 calendar days if no shorter period be specified) from the date of the opening, to furnish any or all of the items upon which prices are quoted at the price set opposite each item, delivered at the point(s) and within the period of time as specified in the Schedule accompanying the aforesaid Invitation for Bids.

(Full name of bidder)

By
Title

(Business address of bidder)

(Telephone number)

Witnesses:

(1)
(2)

Note: In the case of a partnership, the Bid must be signed either by a general partner or by an authorized representative (in the latter case accompanied by a certified copy of the partnership agreement, or power of attorney, showing the authority to sign).

For corporations only, witnesses are not required, but certificate below must be completed and corporate seal affixed.

CERTIFICATE

I, _____, certify that I am the _____ Secretary of the above-named corporation, that _____, who signed the above bid on behalf of said corporation, was then its _____, and that said bid was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Signature of person signing)

Navy Form 33 (3)

This Schedule consists of pages 1 through _____

SCHEDULE

Requisition No. _____ Bureau _____
Bureau for "Changes" _____ Invitation No. _____
Material for _____
Exp. Account _____
Classification _____
Ship or Account _____
Appropriation _____
Activity to which Public Vouchers will be Abstracted _____
Purpose _____
Ultimately (appropriation) _____
Chargeable (expenditure account) _____
Job Order No. or Sub No. _____ (or)
Ship's Req. No. _____

Terms and Conditions of the Schedule

The supplies or services to be furnished, the specifications, the price, discounts, the time and place of delivery, and any other special terms and conditions applicable to the contract are set forth below.

Discounts. Discounts (not trade) will be allowed for prompt payment as follows: _____ percent, 10 calendar days; _____ percent, 20 calendar days; _____ percent, 30 calendar days. In connection with any discount offered, time will be computed from date of delivery of the supplies to carrier

when final inspection and acceptance are at point of origin, or from date of delivery at destination or port of embarkation when final inspection and acceptance are at those points, or from date correct bill or voucher (properly certified by the Contractor) is received if the latter date is later than the date of delivery.

Item No.	Supplies and services (In case of error in extension of prices, unit price will govern)	Quantity (No. of units)	Unit	Unit price	Amount

Navy Form 33 (4)

GENERAL PROVISIONS

NOTE: This form of General Provisions is in process of preparation, based on a revision of the "Uniform General Provisions in Fixed-Price Supply Contracts" as set forth in SecNav Directive dated 25 January 1946, and will be incorporated into this regulation by amendment. Meanwhile, any form of the General Provisions set forth in said Directive, such as NavSanda Forms 90 (2) and 102 (2) or 102 (2A), may be used for Navy Form 33 (4); and any reference in this regulation to Navy Form 33 (4) shall be deemed to apply to any such form of General Provisions.

Navy Form 33 (5)

AWARD

(Name and address of successful bidder)

Invitation No. _____ Contract No. _____
Date _____
Amount \$ _____

Your bid on the above-numbered invitation is hereby accepted as to the items enumerated below with the additions or changes made by you, which additions or changes are set forth in full below.

Item No.	Supplies and services	Quantity (No. of units)	Unit	Unit price	Amount

Total amount \$ _____

This contract, executed as of the above date of the acceptance of your bid, comprises the following documents: (a) the Government's Invitation for Bids, (b) your Bid, (c) the Schedule, (d) the General Provisions, and (e) the Government's Award. No further contractual document is necessary for the consummation of this contract.

THE UNITED STATES OF AMERICA,

By _____

Contracting officer

Navy Department

SUBPART C—PROCUREMENT BY NEGOTIATION

§ 31.300 Scope of subpart. This subpart sets forth (a) the requirements and

procedures for the procurement of supplies and services by means of negotiation, (b) the different circumstances under which negotiation is permitted, (c) determinations and findings that may be required to be made before a contract is entered into by negotiation, (d) approved types of negotiated contracts and their use, and (e) detailed instructions as to the conditions and methods for making advance payments under negotiated contracts.

Use of Negotiation

§ 31.310 Scope of §§ 31.310 to 31.313-21. Sections 31.310 to 31.313-21, inclusive, deal with the use of negotiation and with the different circumstances under which negotiation is permitted.

§ 31.311 Negotiation as distinguished from advertising. As used throughout this part, negotiation means that method of procurement under which the formal procedures for procurement by advertising, as set forth in Subpart B of this part, are not required. Whenever supplies or services are to be procured by negotiation, price quotations, supported by statements and analyses of estimated costs or other evidence of reasonable prices satisfactory to the Contracting Officer, shall be solicited from such qualified sources of supply or services as are deemed necessary by the Contracting Officer to assure full and free competition consistent with the procurement of the required supplies or services, in accordance with the basic policies set forth in §§ 31.130 to 31.134, inclusive. Negotiation shall thereupon be conducted, by Contracting Officers and their negotiators, with due attention being given to the following and any other appropriate factors:

(a) Comparison of prices quoted, and consideration of other prices for the same or similar supplies or services;

(b) Comparison of the business reputations and responsibilities of the respective persons or firms who submit quotations;

(c) Consideration of the quality of the supplies or services offered, or of the same or similar supplies or services previously furnished;

(d) Analysis of each cost breakdown;

(e) Investigation of price aspects of any important subcontract;

(f) Individual bargaining, by mail or by conference;

(g) Consideration of cost sharing; and

(h) Effective utilization of the most desirable type of contract and of such contract provisions as those relating to price redetermination or escalation.

Thereafter, clearance will be obtained in accordance with the requirements of Subpart E of this part, and a Letter of Intent or a final definitive Contract will be prepared in accordance with the provisions of §§ 31.330 to 31.333, inclusive. However, after an agreement has been reached between the parties on the essential terms of the contemplated procurement and after clearance (if such is required), but prior to preparation and execution of the Letter of Intent or final definitive Contract, advance notice of the obligation incurred (containing information as to appropriation number, program number, contract number,

amount of money involved, name of contractor, and NCDO number) shall be sent immediately to the Fiscal Director of the Bureau concerned for the purpose of prompt obligation of funds.

§ 31.312 *General limitations upon use of negotiation.* No contract shall be entered into as a result of negotiation unless the following requirements have been satisfied:

(a) The contemplated procurement comes within one of the circumstances permitting negotiation enumerated in § 31.313;

(b) The determination and findings prescribed in §§ 31.320 to 31.328, inclusive, have been made; and

(c) Such clearance as is prescribed in Subpart E of this part has been obtained.

§ 31.313 *Circumstances permitting negotiation.* Subject to the limitations prescribed in § 31.312 (b) and (c), procurement may be effected by negotiation, and contracts may be entered into as a result of negotiation without advertising, under any one of the following circumstances.

§ 31.313-1 *National emergency.* Negotiation is authorized during the period of any national emergency declared by the President or the Congress after the effective date of this part, but only to the extent determined by the Secretary to be necessary in the public interest. Appropriate directives will be issued by the Secretary upon any future declaration of a national emergency by the President or the Congress.

§ 31.313-2 *Public exigency.* Negotiation is authorized when supplies or services cannot be procured by advertisement by the time that they are needed. The need must be compelling, and of unusual urgency (whether or not foreseeable), as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that date by means of advertising. Examples are the following:

(a) Supplies or services needed at once because of a fire, explosion, or other disaster;

(b) Essential equipment for or repair to a ship, where advertising would delay sailing or where the delays incident to formal advertising would result in loss to the Government;

(c) Essential equipment for or repair to any aircraft grounded or about to be grounded, when such equipment or repair is necessary for the completion of the tactical mission of such aircraft.

§ 31.313-3 *Purchases not in excess of \$1,000.* Negotiation is authorized for any procurement of supplies or services the aggregate amount of which does not exceed \$1,000. Purchases or contracts aggregating \$1,000 or less shall be made under this section rather than under any other provision of this part. In arriving at the aggregate amount involved, there must be included all supplies and services which would properly be grouped together in a single transaction, and which would be included in a single advertisement if the procurement were being ef-

fectuated by advertising. Purchases or contracts aggregating more than \$1,000 shall not be broken down into several purchases or contracts which are less than \$1,000, nor shall customary purchasing or contracting procedures be altered, merely for the purpose of permitting negotiation under this section.

§ 31.313-4 *Personal or professional services.* Negotiation is authorized for personal or professional services, provided:

(a) The services are required to be performed by an individual contractor in person (i. e., not by a firm);

(b) The services are of a technical or professional nature or are to be performed under Government supervision and to be paid for on a time basis; and

(c) The procurement of such services is otherwise specifically authorized by law (this authorization being given for the current fiscal year in section 109 of the 1948 Navy Department Appropriation Act, Public Law 202, 80th Congress).

Any contract for personal or professional services under this paragraph shall be negotiated subject to the approval of the Secretary, and shall be executed on behalf of the Government only by the Secretary or by his representative specifically authorized for that purpose.

§ 31.313-5 *Services of educational institutions.* Negotiation is authorized for:

(a) Educational or vocational training services to be rendered by any university, college, or other educational institution in connection with the training and education of personnel sent to any such institution, and for necessary material, services, and supplies furnished by any such institution in connection therewith; and

(b) Research or development work to be conducted by any university, college, or other educational institution, and for reports furnished in connection therewith.

§ 31.313-6 *Purchases outside the United States.* Negotiation is authorized for supplies or services to be procured and used outside the limits of the United States and its possessions, such as supplies or services procured abroad for overseas installations or for the use of occupational forces.

§ 31.313-7 *Medicines or medical supplies.* Negotiation is authorized for medicines and medical supplies, *Provided*, (a) That such supplies are peculiar to the field of medicine, and, (b) That whenever the probable cost of medicines or medical supplies will exceed \$10,000, suitable advance publicity of the proposed purchase shall be given. The form and extent of such publicity, which shall be given for a period of at least fifteen (15) days wherever practicable, shall be determined by the Contracting Officer.

§ 31.313-8 *Supplies purchased for authorized resale.* Negotiation is authorized for supplies purchased for authorized resale and paid for from appropriated funds; *Provided*, That whenever the probable cost of such supplies will exceed \$10,000, suitable advance publicity of the proposed purchase shall be given. The form and extent of such publicity, which

shall be given for a period of at least fifteen (15) days wherever practicable, shall be determined by the Contracting Officer. The authority to negotiate contained in this section shall ordinarily be limited to purchases of articles with brand names or of a proprietary nature as required by patrons of the reselling activity.

§ 31.313-9 *Perishable subsistence supplies.* Negotiation is authorized for perishable subsistence supplies whenever it is impracticable to procure them by advertising. An example of such impracticability is the situation where suppliers are unable to guarantee (a) the availability of a specific quantity of perishable subsistence supplies, (b) the required quality, (c) a stated price, and (d) delivery at a specified future date. This subparagraph shall not apply if authority to negotiate exists under some other provision of this part.

§ 31.313-10 *Supplies or services for which it is impracticable to secure competition.* Negotiation is authorized for supplies or services with respect to which it is impracticable to secure competition by formal advertising under Subpart B of this part. The following situations are illustrative of circumstances with respect to which this authority would apply:

(a) When the supplies or services can be obtained from only one person or firm ("sole source of supply");

(b) When competition is precluded because of the existence of patent rights, secret processes, control of basic raw material, or similar circumstances;

(c) When bids have been solicited pursuant to Subpart B of this part and no acceptable bid has been received;

(d) When recent previous solicitations of bids for the same or similar supplies or services have resulted in no acceptable bid being received;

(e) When the contemplated procurement is for electric power, gas (natural or manufactured), water, or other utility services (provided that clearance therefor is obtained pursuant to § 31.517);

(f) When the contemplated procurement involves ship maintenance, repair, or alterations, and when the exact nature of the work to be done is not known;

(g) When the contemplated procurement is for stevedoring, terminal, or warehousing services, and when either the rates are established by law or regulation or the rates are so numerous or complex that it is impracticable to set them forth in the specifications of a formal Invitation for Bids;

(h) When the contemplated procurement is for commercial ocean transportation, including time charters, space charters and voyage charters over trade routes not covered by common carriers (as to which, see § 31.313-18), and including services for the operation of Government-owned vessels; and

(i) When it is impossible to draft, for an Invitation for Bids, definite specifications or any other description of the required supplies or services.

§ 31.313-11 *Experimental, developmental, or research work.* Negotiation is authorized for supplies or services with

respect to which the Secretary (or, in the case of contracts for \$25,000 or less, a Chief Officer Responsible for Procurement) has made, in accordance with the requirements of §§ 31.320 to 31.328, inclusive, one of the following determinations: (a) That the contract is for experimental, developmental, or research work (including services, tests, and reports necessary or incidental to any of the foregoing); or (b) that the contract is for the manufacture or furnishing of supplies for experimentation, development, research, or test. This section does not apply to contracts for the quantity production of items developed as the result of prior experimentation, development, research, or test; however, research or development contracts which call for the production of a reasonable number of experimental or test models, or prototypes, shall not be regarded as contracts for quantity production.

§ 31.313-12 *Classified purchases.* Negotiation is authorized for supplies or services with respect to which the Secretary has determined, in accordance with the requirements of §§ 31.320 to 31.328, inclusive, that the character, ingredients, or components of the supplies or services to be procured are such that the contract should not, for reasons of military security, be publicly disclosed. This section shall not apply to any procurement which is classified lower than confidential.

§ 31.313-13 *Technical equipment requiring standardization and interchangeability of parts.* Negotiation is authorized for supplies with respect to which the Secretary has determined, in accordance with the requirements of §§ 31.320 to 31.328, inclusive, that:

(a) The supplies constitute technical equipment or component parts thereof; and

(b) Negotiation is necessary in order to assure standardization of the equipment and interchangeability of parts; and

(c) Such standardization and interchangeability is necessary in the public interest.

This section shall not ordinarily apply to the initial procurement of a particular item, but applies whenever it is necessary or desirable.

(1) To limit the quantity of spare parts that must be carried in stock; or

(2) To make possible, by standardization, the availability of parts that may be interchanged among pieces of damaged equipment during combat or any other emergency; or

(3) To procure from a single source of supply technical equipment which is available from a number of suppliers but which would have such varying performance characteristics (notwithstanding detailed specifications and rigid inspection) as would prevent standardization and interchangeability of parts.

§ 31.313-14 *Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.* Negotiation is authorized for supplies with respect to which the Secretary has determined, in

accordance with the requirements of §§ 31.320 to 31.328, inclusive, that:

(a) The supplies are of a technical or specialized nature requiring a substantial investment or an extended period of preparation for manufacture; and

(b) Procurement by advertising and competitive bidding either:

(1) May require duplication of investment or preparation already made, or

(2) Will unduly delay procurement.

Authority to negotiate under this subparagraph shall be limited to procurement of technical or specialized equipment, for example: aircraft, tanks, radar, guided missiles, rockets, and similar items of equipment. Such procurement generally involves:

(i) High starting costs which already have been paid for by the Government or by the supplier;

(ii) Preliminary engineering and development work that would not be useful to any other supplier;

(iii) Elaborate special tooling already acquired;

(iv) Substantial time and effort already expended in developing an initial production model; and

(v) Important design changes which will continue to be developed by the supplier.

The authority of this section will in general be limited to situations where it is preferable to place a production contract with the supplier who has developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier, or avoid undue delay arising from a new supplier having to acquire such techniques, tooling, and equipment.

§ 31.313-15 *Negotiation after advertising.* Negotiation is authorized for supplies or services with respect to which the Secretary has determined, in accordance with the requirements of §§ 31.320 to 31.328, inclusive, that the bid prices, after advertising for such supplies or services, are not reasonable or have not been independently arrived at in open competition. However, after such determination by the Secretary, no contract shall be negotiated pursuant to this section unless:

(a) Prior notice of intention to negotiate and a reasonable opportunity to negotiate have been given by a Contracting Officer to each responsible bidder whose bid has been rejected; and

(b) The negotiated price is lower than the lowest rejected bid price of a responsible bidder, as determined by the Secretary; and

(c) The negotiated price is the lowest negotiated price offered by any responsible supplier.

§ 31.313-16 *Purchases in the interest of National Defense or industrial mobilization.* Negotiation is authorized for supplies and services with respect to which the Secretary has determined, in accordance with the requirements of §§ 31.320 to 31.328, inclusive, that:

(a) It is in the interest of national defense that a particular facility or supplier be made or kept available for furnishing supplies or services in the event of a national emergency, and procure-

ment by negotiation is necessary to that end; or

(b) The interest of industrial mobilization, in the event of a national emergency, would be promoted by procurement by negotiation with such a supplier; or

(c) In maintaining active engineering, research, and development, the interest of the national defense would be promoted by procurement by negotiation with such a supplier.

Examples of situations in which negotiation is authorized under this section are the following:

(1) Procurement by negotiation is necessary to keep a vital facility or supplier in business;

(2) Procurement by negotiation with selected suppliers is necessary in order to train them in the furnishing of critical supplies to prevent the loss of their ability and employee skills, or to maintain active engineering, research, or development work.

§ 31.313-17 *Construction work.* Negotiation is authorized for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items, if

(a) The contract therefor is to be performed outside the continental United States; or

(b) Negotiation is authorized under any one of §§ 31.313-1, 31.313-2, 31.313-3, 31.313-10, 31.313-11, 31.313-12, or 31.313-15.

§ 31.313-18 *Transportation services.* Pursuant to section 321 of part III of the Interstate Commerce Act (Act of September 18, 1940; 49 U. S. Code 65), negotiation is authorized for the transportation of persons or things by any common carrier on land or sea lawfully operating in the place where such transportation services are to be performed, or by any person not a common carrier, *Provided*, That such transportation is over routes or between points serviced by common carriers.

§ 31.313-19 *Architectural or engineering services.* Pursuant to the act of April 25, 1939 (34 U. S. Code 556), negotiation is authorized, with any individual, firm, or corporation furnishing architectural or engineering services, for the procurement of designs, plans, drawings, and specifications required for:

(a) The construction, conversion, or alteration of any naval public works or utilities projects; or

(b) The construction of any naval vessel, aircraft, or part thereof;

Provided, That, in the opinion of the Chief of the Bureau concerned, such negotiation is advantageous to the national defense, and the existing facilities of the Navy Department are inadequate.

§ 31.313-20 *Services of experts or consultants.* Pursuant to section 15 of the act of August 2, 1946 (Public Law 600, 79th Congress), negotiation is authorized for the services of organizations of experts or consultants (including architectural, engineering and technical or professional services, but excluding stenographic reporting services), *Provided*, That procurement of such services is au-

thorized in an appropriation or other act. This authorization is given for the current fiscal year in section 109 of the 1948 Navy Department Appropriation Act (Public Law 202, 80th Congress).

§ 31.313-21 *Otherwise authorized by law.* Negotiation may be authorized under circumstances other than those enumerated previously in §§ 31.313 to 31.313-20, inclusive, only if and to the extent approved by the Material Division and the Office of the General Counsel under provisions of existing law.

Determinations and Findings

§ 31.320 *Scope of §§ 31.320 to 31.328.* Sections 31.320 to 31.328, inclusive, (a) enumerate the particular determinations and findings to be made (1) by the Secretary, (2) by a Chief Officer Responsible for Procurement, and (3) by a Contracting Officer; and (b) prescribe the required form and procedure with respect to such determinations and findings.

§ 31.221 *Nature of determinations and findings.* The determinations and supporting findings that are referred to throughout this part, usually as prerequisites to the authority of a Bureau to enter into contracts by negotiation or to make advance payments under negotiated contracts, will in most instances be made by the Secretary. Such determinations and findings shall ordinarily be made only with respect to individual purchases or contracts, but may be made with respect to classes of purchases or contracts in special cases and then only for the period specified. Certain determinations, as hereinafter provided, may be made by a Chief Officer Responsible for Procurement or by a Contracting Officer, but only with respect to individual purchases or contracts.

§ 31.322 *Determinations and findings by the Secretary.* The following determinations, and written findings in support thereof, may be made only by the Secretary, and are not delegated hereunder except to the extent provided in § 31.323:

(a) The determination required by § 31.313-11 with respect to any negotiated contract for experimental, developmental, or research work;

(b) The determination required by § 31.313-12 with respect to any negotiated contract that should not be publicly disclosed;

(c) The determination required by § 31.313-13 with respect to any negotiated contract for technical equipment requiring standardization and interchangeability of parts;

(d) The determination required by § 31.313-14 with respect to any negotiated contract for technical or specialized supplies requiring a substantial initial investment or an extended period of preparation for manufacture;

(e) The determination required by § 31.313-15 with respect to any negotiated contract entered into after advertising has proved unsatisfactory;

(f) The determination required by § 31.313-16 with respect to any negotiated contract entered into in the interest of national defense or industrial mobilization;

(g) The determination required by § 31.343 with respect to advance payments under any negotiated contract.

In addition to the foregoing determinations, the Secretary may also make any of the determinations, and written findings in support thereof, that may be made by a Chief Officer Responsible for Procurement or by a Contracting Officer.

§ 31.323 *Determinations and findings by a Chief Officer Responsible for Procurement.* The following determinations, and written findings in support thereof, may be made by a Chief Officer Responsible for Procurement:

(a) The determination required by § 31.313-11 with respect to any negotiated contract for experimental, developmental, or research work which will not require the expenditure of more than \$25,000;

(b) Any of the determinations that may be made by a Contracting Officer.

§ 31.324 *Determinations and findings by a Contracting Officer.* The following determinations may be made by a Contracting Officer to the extent that such authority has been delegated to him under § 31.121-7:

(a) The determination required by § 31.243 with respect to the rejection of all bids when such rejection is in the public interest;

(b) The determination required by § 31.313-7 with respect to the form and extent of advance publicity of any proposed negotiated contract for medicine or medical supplies in an amount in excess of \$10,000;

(c) The determination required by § 31.313-8 with respect to the form and extent of advance publicity of any proposed negotiated contract for supplies purchased for authorized resale in an amount in excess of \$10,000;

(d) The determination required by § 31.322-1 with respect to the selection of a type of negotiated contract other than the fixed-price type, *Provided*, That any such determination shall be based upon written findings made by the Contracting Officer.

§ 31.325 *Forms of determinations and findings.*

§ 31.325-1 *Authority to negotiate individual contracts.* In connection with the negotiation of contracts under the authority of §§ 31.313-11 to 31.313-16, inclusive, the Contracting Officer shall prepare, for the signature of the Secretary (or, where authorized by § 31.313-11, for the signature of a Chief Officer Responsible for Procurement), a proposed statement of the required determination and supporting findings, such statement to be substantially in the following form:

DETERMINATION AND FINDINGS

AUTHORITY TO NEGOTIATE INDIVIDUAL CONTRACT

No. -----

1. The ----- has requested authority (Bureau) to enter into a negotiated contract for -----, and it has been recommended by the Material Division that the necessary determination and supporting findings be made by the Secretary (or a Chief

Officer Responsible for Procurement) in order to permit the contract to be negotiated under the authority of paragraph ----- of the Navy Procurement Regulation.

2. The following are hereby found to be the facts concerning the proposed contract: (Summary of significant facts.)

3. Upon the basis of the findings set forth in paragraph 2 hereof, it is hereby determined that:

(Statement of determination or determinations required by applicable paragraph of NPR.)

Secretary of the Navy

(or Chief of the Bureau of -----)

Date: -----

§ 31.325-2 *Authority to negotiate classes of contracts.* In connection with the negotiation of contracts under the authority of §§ 31.313-11 to 31.313-16, inclusive, the Contracting Officer may request the Secretary to make a class determination, as provided in § 31.321, and in that event shall prepare for the signature of the Secretary a proposed statement of class determination substantially in the following form:

DETERMINATION AND FINDINGS

No. -----

AUTHORITY TO NEGOTIATE CLASS OF CONTRACTS

1. The ----- has requested, and (Bureau)

the Material Division has recommended, that a class determination and supporting findings be made by the Secretary in order to permit contracts, of the following class

(Description of class of supplies or services ----- to be involved)

negotiated under the authority of paragraph ----- of the Navy Procurement Regulation, without requiring separate determinations and findings with respect to each individual contract in the aforementioned class.

2. The following are hereby found to be the facts concerning the proposed class of contracts:

(Summary of significant facts.)

3. Upon the basis of the findings set forth in paragraph 2 hereof, it is hereby determined, with respect to all proposed contracts which fall within the class described in paragraph 1 hereof, that—

(Statement of determination or determinations required by applicable paragraph of NPR.)

4. This class determination shall remain in effect until -----

(Date)

Secretary of the Navy

Date -----

§ 31.325-3 *Advance payments.* In connection with a request for advance payments under any negotiated contract, the Contracting Officer shall prepare, for the signature of the Secretary, a proposed statement of the determination and supporting findings required by § 31.343, such statement to be substantially in the following form:

DETERMINATION AND FINDINGS

ADVANCE PAYMENTS

No. -----

1. ----- has requested (Person or firm)

advance payments under a contract for ----- with (Supplies or services)

-----, and it has been recommended by the Material Division that the necessary determination and supporting findings be made by the Secretary (or a Chief

mended by the Contracting Officer and by the Fiscal Director that the necessary determination and supporting findings required by paragraph 343 of the Navy Procurement Regulation be made by the Secretary in order to permit advance payments to be made.

2. The following are hereby found to be the facts concerning the requested advance payments:

(Summary of significant facts.)

3. Upon the basis of the findings set forth in paragraph 2 hereof, it is hereby determined that provision for the requested advance payments—

(a) is in the public interest (or in the interest of national defense); and

(b) is necessary and appropriate in order to procure the required supplies (or services) under the contract.

Secretary of the Navy

Date _____

§ 31.325-4 *Method of contracting.* Whenever it is proposed to use a type of negotiated contract other than the fixed-price type, the Contracting Officer shall prepare and sign a statement of the determination and supporting findings required by § 31.322-1, and also by § 31.331-3 (if applicable) such statement to be substantially in the following form:

DETERMINATION AND FINDINGS

METHOD OF CONTRACTING

1. The _____ proposes to enter into a negotiated contract with _____ (Bureau) (Person or firm) for _____ of a (Supplies or services) type at _____

(Here insert the estimated cost and fixed fee, in dollars and in per centum, if the proposed contract is of the CPFF type)

2. The following are hereby found to be the facts concerning the proposed type of contract:

(Summary of significant facts.)

3. Upon the basis of the findings set forth in paragraph 2 hereof, it is hereby determined that—

(Statement of determination or determinations required by paragraph 332.1 and paragraph 331.3 (if applicable) of NPR.)

(Contracting officer)

Bureau of _____

Date: _____

§ 31.325-5 *Other determinations.* All other determinations required to be made by this part, for which no form is prescribed in §§ 31.325-1 to 31.325-4, inclusive, shall be in writing.

§ 31.326 *Procedure with respect to determinations and findings.*

§ 31.326-1 *Determinations and findings by the Secretary.* Every proposed statement of determination and findings prepared for the signature of the Secretary in the form prescribed by §§ 31.325-1, 31.325-2, or 31.325-3:

(a) Shall be prepared in the Bureau or Office concerned, and forwarded over the signature of a senior officer responsible for procurement;

(b) Shall be approved as to form and legality by Counsel for the Bureau or Office concerned (or, when there is no such Counsel, then by Counsel for the Material Division);

(c) Shall be submitted to the Secretary for signature, together with supporting documents or information in justification

tion of the proposed determination and findings, via the Material Division (M 320) when the statement relates to the authority to negotiate, or via the Fiscal Director (with a copy to the Material Division) when the statement relates to advance payments;

(d) Shall be returned, upon signing, to the cognizant Contracting Officer.

§ 31.326-2 *Determinations and findings by a Chief Officer Responsible for Procurement.* The procedure described in § 31.326-1 shall be followed with respect to determinations and findings by a Chief Officer Responsible for Procurement, except that the proposed statement (a) shall omit the recommendation of the Material Division and (b) shall be submitted for signature to such Chief Officer (but not via the Material Division) and upon signing shall be returned to the Contracting Officer.

§ 31.326-3 *Determinations and findings by a Contracting Officer.* The procedure described in § 31.326-1 shall be followed with respect to determinations and findings by a Contracting Officer, except that the Contracting Officer shall himself sign the statement in the form prescribed by § 31.325-4.

§ 31.327 *Distribution of copies of determinations and findings.* A copy of each determination and supporting findings, and of each determination without findings, made under this part shall be sent to the Material Division, M 320, (along with a request for clearance, if clearance is required under Subpart E of this part; otherwise, at the time of signing such determination). A copy of each determination and supporting findings required to be made hereunder after January 1, 1948 with respect to (a) negotiated contracts (whether by individual contract or by class of contracts), (b) advance payments, and (c) the use of a type of negotiated contract other than the fixed-price type, shall be sent to the General Accounting Office with the copy of the contract negotiated and executed thereunder.

§ 31.328 *Retention of copies of determinations and findings, and of other records.* Copies of all determinations and findings, and of all supporting documents, shall be preserved in the Bureau or in the Navy Department for six years. Complete records with respect to all negotiated contracts shall be preserved in the cognizant Bureau or in the Navy Department until their destruction is authorized by the Secretary.

Types of Contracts

§ 31.330 *Scope of §§ 31.330 to 31.333.* Sections 31.330 to 31.333, inclusive, describe certain approved types of negotiated contracts and set forth the requirements to be followed in selecting a particular type.

§ 31.331 *Approved types of contracts.* In accordance with the basic policy set forth in § 31.134, the fixed-price type of contract shall generally be used for negotiated contracts (other than contracts for experimental developmental, or research work), and no other method of contracting shall be used except upon

compliance with any applicable requirements of § 31.332. In no event, however, shall the cost-plus-a-percentage-of-cost system of contracting be used by any Bureau, or allowed to be used for any subcontract under a Bureau contract. Furthermore, in a fixed-price contract for architectural or engineering services relating to any public work or utility project, the maximum price for such services shall not exceed six per centum (6%) of the estimated cost of such project (exclusive of the fixed fee for the project).

§ 31.331-1 *Fixed-price contract.* The fixed-price contract provides for a firm price or prices for the supplies or services which are being procured. This type of contract:

(a) May set up a maximum price and provide for accomplishment of the work by job orders, or task letters or orders, which are separately negotiated within the maximum price according to the terms and procedures of the basic contract and which obligate funds only upon the issuance of the specific order or letter; and

(b) May or may not include provision for price redetermination, escalation, or other means of price adjustment agreed to at the time of executing the contract.

However, when a fixed-price contract contains a redetermination clause of the so-called incentive type, it shall be deemed to be an Incentive-Type Contract within the meaning of § 31.331-4.

§ 31.331-2 *Cost contract.* The cost (or cost-sharing) contract provides for payment to the contractor of "allowable" costs, to the extent prescribed in the contract, incurred in the performance of the contract. The cost contract:

(a) Sets up an estimate of the total cost for purposes of (1) obligating funds and (2) in certain instances, establishing a ceiling beyond which the contractor cannot go (except at his own expense) without prior approval of the contracting officer;

(b) May provide for a predetermined fixed (or provisional) overhead rate, generally to be renegotiated at stated intervals; and

(c) May provide for accomplishment of the work by task letters or orders as described in § 31.331-1.

§ 31.331-3 *Cost-plus-fixed-fee contract.* The cost-plus-fixed-fee contract is similar to the cost contract in that it provides for payment to the contractor of all allowable costs as defined in the contract, sets up an estimate of the total cost, and may provide for a predetermined overhead rate and for task letters or orders as heretofore described; but it is different from the cost contract in that it also provides for payment of a fixed fee based on the estimated cost of the contract (or, in the case of a task-type contract, on the estimated cost of each task or order thereunder). This fixed fee, which does not vary with actual cost but only with a change in the estimated cost as the result of a change in the scope of work under the contract, is negotiated by the parties, but in no event shall the fixed fee exceed seven per centum (7%) of the estimated cost of the contract exclusive of

fee. In a cost-plus-fixed-fee contract for architectural or engineering services relating to any public work or utility project, there is authorized for such services a fee which, together with the costs of such services, shall not exceed six percentum (6%) of the estimated cost of such project (exclusive of the fixed fee for the project). The estimated cost referred to in this section must be determined by the Contracting Officer as part of his determination and findings required by § 31.332.

§ 31.331-4 *Incentive-type contract.* The incentive-type contract is in effect a fixed-price contract with a special provision for redetermination. It provides for a tentative base price or target price (called the "contract price") and a maximum price, with price redetermination after completion of the contract for the purpose of establishing a final price based on the contractor's actual costs plus a sliding scale of profit which varies inversely with the cost but which in no event shall permit the final price to exceed the maximum price stated in the contract. Costs and final unit prices are arrived at by negotiation.

§ 31.331-5 *Purchase order.* A purchase order is a fixed-price contract, signed only by the Contracting Officer, for the purchase of supplies or services from an established price list or following a written or oral quotation of prices.

§ 31.331-6 *Letter of Intent.* A Letter of Intent is a preliminary contract, with or without price and other basic contract terms finally agreed to therein. It authorizes the contractor to commence work, incur costs, and make commitments pending negotiation and execution of the final definitive contract. It obligates the Government either to make such a final definitive contract within a specified time or to reimburse the contractor for costs incurred under the Letter of Intent.

§ 31.332 *Selection of type of contract.*

§ 31.332-1 *Use of cost contracts, cost-plus-fixed-fee contracts, or incentive-type contracts.* Prior to the use of a cost (or cost-sharing) contract, a cost-plus-fixed-fee contract, or an incentive-type contract, the Contracting Officer must determine, in accordance with the requirements of §§ 31.320 to 31.328, inclusive, that:

(a) Such type of contract is likely to be less costly than other methods; or

(b) It is impracticable to secure supplies or services of the kind or quality required without the use of such type of contract.

If a cost-plus-fixed-fee contract is to be used, the Contracting Officer must also determine the estimated costs of the contract or of any task or order thereunder.

§ 31.332-2 *Use of purchase orders.* Purchase orders shall be used only for negotiated purchases not in excess of \$1,000, as authorized by § 31.313-3:

§ 31.332-3 *Use of Letters of Intent.* Letters of Intent shall be used only:

(a) When it is essential to give to the contractor a binding commitment in or-

der to permit him to commence work immediately; or

(b) When the experimental nature of the work involved prevents the preparation of definitive requirements or specifications, thereby making it impossible to negotiate a final contract at that time.

Whenever a Letter of Intent is used, within the authority of this subparagraph, it shall be superseded as soon as possible by a final definitive contract. It should originally be issued for any period (up to one year) which is expected to be adequate to permit conversion to a definitive contract.

§ 31.333 *Contract forms and clauses.* Contract forms and clauses currently in use in the respective Bureaus, and either prescribed or approved by existing Directives, shall continue to be used until the issuance of Subpart H of this part to be entitled "Uniform Contract Clauses."

Advance Payments

§ 31.340 *Scope of §§ 31.340 to 31.348.* Sections 31.340 to 31.348, inclusive, set forth (a) the authority for making advance payments, (b) the limitations upon that authority, and (c) the required procedure for requesting, approving, administering, and liquidating advance payments.

§ 31.341 *Nature of advance payments.* Advance payments, as provided for in §§ 31.340 to 31.348, inclusive, shall be deemed to be payments made to a contractor, in the form of loans or advances, prior to and in anticipation of performance of work or delivery of articles called for under the contract. They are to be distinguished from "partial payments" and "progress payments," which are payments made (a) on account of a termination claim, or (b) on account of work in process under a fixed-price contract, based either on labor and material costs actually incurred in the performance of the contract or on a percentage of completion of performance of the entire contract.

§ 31.342 *General authority to make advance payments.* Subject to the limitations prescribed in § 31.343, advance payments may be made under negotiated contracts executed before or after the effective date of this part, but only upon adequate security and in no event for an amount in excess of the amount of the contract.

§ 31.343 *Limitations upon authority to make advance payments.* No advance payment shall be made under any negotiated contract unless:

(a) Provision for advance payments is in the public interest or in the interest of national defense, as determined by the Secretary in accordance with the requirements of §§ 31.320 to 31.328, inclusive; and

(b) Provision for advance payments is necessary and appropriate in order to procure the required supplies or services, as determined by the Secretary in accordance with the requirements of §§ 31.320 to 31.328, inclusive; and

(c) Except for non-profit research contracts with established educational

institutions, no other means of adequate financing is available to the supplier.

Advance payments will not be approved merely because a contract has already been awarded, or because negotiations have been substantially completed, or because the supplier has received or is receiving Navy financing under other contracts.

§ 31.344 *Interest on advance payments.* Interest at the rate of 2½% shall be charged on the unliquidated balance of all outstanding advance payments; except that under contracts to be performed without profit or fee to the contractor, advance payments may be made without interest. Interest charges shall not constitute allowable costs under a cost-plus-fixed-fee type of contract.

§ 31.345 *Requests for advance payments.* Requests by contractors for advance payments shall be made to a Contracting Officer, who shall, after ascertaining that a contractor will apparently need financial assistance from the Navy Department, submit the request to the Office of the Fiscal Director (hereinafter referred to as "the Fiscal Director"), together with:

(a) A statement from the contractor (except in the case of non-profit research contracts with established educational institutions) that no other means of financing is available;

(b) A statement (except in the case of non-profit research contracts with established educational institutions) that the supplies or services cannot be satisfactorily procured from a contractor who does not need financial assistance from the Navy Department;

(c) A statement that the contractor is a responsible person or firm;

(d) A statement that, in the opinion of the Contracting Officer, the provision for the requested advance payments is (1) in the public interest or in the interest of the national defense, and (2) is necessary and appropriate in order to procure the required supplies or services.

(e) A proposed statement of determination and findings for the signature of the Secretary, as set forth in § 31.325-3.

§ 31.346 *Responsibility of the Fiscal Director.* It shall be the responsibility of the Fiscal Director:

(a) To review all requests for advance payments, and make such independent investigations and analyses with respect thereto as he deems necessary;

(b) To disapprove such requests when they do not satisfy the requirements of this regulation or the fiscal policies of the Navy Department, otherwise to forward to the Secretary for his signature the proposed statement of determination and findings submitted by the Contracting Officer (altered or supplemented as the Fiscal Director may deem advisable);

(c) To approve such requests when they do satisfy the requirements of this regulation and the fiscal policies of the Navy Department, and after the Secretary has made the required determination and findings;

(d) To prepare for the cognizant Bureau the necessary advance payment provisions, and to prescribe the terms and

conditions on which advance payments shall be made; and

(e) To take all necessary steps, in connection with advance payments that have been made, to liquidate such advance payments and otherwise to protect the financial interest of the Government.

§ 31.347 *Responsibility of cognizant Bureau.* Any Bureau that submits to the Fiscal Director a request for advance payments shall, when such advance payments have been approved and made, furnish to the Fiscal Director such information as to the continuing financial responsibility of the contractor and the progress of the contract under which the advance payments have been made as is requested by the Fiscal Director or deemed necessary by the Bureau, and in any event shall promptly notify the Fiscal Director of any developments that might indicate the likelihood of a contractor's default.

§ 31.348 *Amendments and deviations.* Any amendment to §§ 31.340 to 31.348, inclusive, and any deviation from its requirements, shall first be approved by the Fiscal Director.

SUBPART D—PROCUREMENT WITHIN THE GOVERNMENT

Single Department Procurement

§ 31.410 *Scope of §§ 31.410 to 31.418.* Sections 31.410 to 31.418, inclusive, deal with the procurement of supplies or services between the Army, the Navy, and the Air Forces, and incorporate into this part the substance of the "Joint Directive Relating to Single Department Procurement" as previously approved by the Departments of the Army and of the Navy. They do not change, however, the present procedures for (a) transfer of materials from the stocks of one Department to another Department or (b) work performed by one Department for another, with respect to both of which matters reimbursement will continue to be made either by an advance of funds or by billing and payment after delivery of the materials or performance of the work; nor does it change the present purchasing procedures of the Joint Army-Navy Medical Procurement Office.

§ 31.411 *Requiring Department and Purchasing Department.* As used in §§ 31.410 to 31.418, inclusive, "Requiring Department" is the Department originating a requisition or procurement request for supplies or services to be purchased by another Department. "Purchasing Department" is the Department which is assigned the purchase responsibility for certain supplies and services and which makes contracts for such supplies and services to satisfy its own requirements and those of another Department. The Purchasing Department will be governed by its own regulations or directives with respect to clearance.

§ 31.412 *Execution and administration of contracts.* Purchases for each Department will generally be covered by separate contracts. If the Purchasing Department determines in a particular instance that economy or more efficient procurement will result, the require-

ments of the Departments may be combined in a single contract, with the quantities of each item for each Department being shown separately and clearly identified as to the proper appropriation or fund to be charged. The Purchasing Department will make allocations of purchases between the Departments on an equitable basis, taking into consideration prices, quantities available, and delivery schedules. Contracts will be numbered according to the regular contract number series of the Purchasing Department. The Purchasing Department will be responsible for complete administration of contracts made by it, including distribution of documents, modifications, and termination settlements.

§ 31.413 *Specifications.* The Purchasing Department shall have the following responsibilities in connection with specifications:

(a) Obtaining from the Requiring Department a list of (or copies of) specifications used in the assigned field;

(b) Reviewing the specifications to determine those which are of such interest that joint Army-Navy or Federal specifications should be prepared;

(c) Taking action with the Army-Navy Joint Specifications Board to have joint Army-Navy or Federal specification projects initiated.

§ 31.414 *Funds and payments.* Each requisition or procurement request forwarded by the Requiring Department to the Purchasing Department will show the appropriation or funds of the Requiring Department under which the contract is to be drawn. The signature of the officer approving the requisition or procurement request for the Requiring Department will be considered as establishing conclusively that the purchase is authorized under the appropriation or fund cited and that the amount stated has been committed for the purpose of meeting payments on the contract, as and when accruing. The amount shown on the requisition or procurement request will be the Requiring Department's best estimate of the cost of the materials and supplies to be purchased. The Purchasing Department is authorized, without further approval of the Requiring Department, to make a contract for a total sum, including all contingent amounts for variation in quantity and price, not in excess of the amount estimated by the Requiring Department plus 10%, unless otherwise specified in the requisition or procurement request. The Purchasing Department will make no amendment increasing the total dollar amount of a contract without prior approval of the Requiring Department: *Provided, however,* That such prior approval shall not be required for amendments establishing the amounts of adjustments required by the terms of the contract as executed or previously amended. In every instance, the contract will establish an obligation and provide for payment under an appropriation or fund of the Requiring Department. In every instance the contract will provide for payment by a disbursing officer of the Requiring Department in accordance with the regulations of the Requiring Department. Each

Department will provide the other Departments with a list showing the disbursing offices paying dealers' bills and the regulations governing the submission of dealers' bills and designation of paying offices. The Purchasing Department will comply with such regulations of the Requiring Department by including in the contract appropriate invoicing and payment instructions. The Requiring Department will include on the requisition or procurement request appropriate accounting data, ordinarily shown in contracts of the Requiring Department, and such data will be included in the contract issued by the Purchasing Department.

§ 31.415 *Inspection.* Inspection of materials at place of manufacture or prior to shipment, usually a condition of acceptance by the Government, will generally be made by inspectors of the Purchasing Department. However, this general rule shall not be construed to preclude the utilization of the inspectors of the Requiring Department where located at or otherwise servicing the contractor's plant. Normally, inspection at destination will be made by inspectors of the Requiring Department.

§ 31.416 *Transportation of materials.* Every requisition or procurement request will show the appropriation or fund and accounting classification chargeable for such transportation costs as may be incurred in effecting delivery at Government expense. Government bills of lading will generally be issued by the Purchasing Department. In every instance, the Government bill of lading will show the Requiring Department as the Department to be billed, and the appropriation or fund designated by the Department as the appropriation chargeable. Where Government bills of lading of the Purchasing Department are used to cover shipment of material consigned to the Requiring Department, the bill of lading number will be prefixed by rubber-stamped insertion of the name of the Requiring Department. Carriers' bills for charges on Government bills of lading will be rendered to and paid by a disbursing officer of the Requiring Department.

§ 31.417 *Transfer of existing contracts.*

§ 31.417-1 *Effect of assignment of procurement responsibility.* When the entire procurement responsibility for a commodity or class of commodities is assigned to a Department, existing incomplete contracts made by the Department other than the one to which is assigned the future procurement responsibility will not as a matter of general policy be transferred, and such Department will continue to administer its existing contracts for all purposes. The present exception to this general policy involves the transfer of existing solid fuel contracts from the Department of the Army to the Department of the Navy.

§ 31.417-2 *Disputes under transferred contracts.* With reference to all contracts which are, or may be, transferred from the Navy to the Army or the Air Force, the Army Board of Contract Ap-

peals is designated and authorized to act for the Secretary of the Navy and to hear and decide all disputes concerning questions of fact which are appealed pursuant to the "Disputes" clause of such transferred contracts. With reference to contracts which are, or may be, transferred from the Army or the Air Force to the Navy, the Navy Department Board of Contract Appeals is designated and authorized as the Board to hear and decide all disputes concerning questions of fact which are appealed pursuant to the "Disputes" clause of such transferred contracts.

§ 31.417-3 *Successors to Navy contracting officers.* With reference to all contracts which are, or may be, transferred from the Department of the Navy to the Department of the Army or the Department of the Air Force, the successors to the contracting officer for each of such contracts shall be the Chief of the Technical Service to which the administration of such contracts is assigned, and the contracting officers in such Technical Service and their duly appointed successors and duly authorized representatives.

§ 31.417-4 *Successors to Army or Air Force contracting officers.* With reference to all contracts which are, or may be, transferred from the Army or the Air Force to the Navy, the successors to the contracting officers for each of such contracts shall be the Chief of the Bureau to which the administration of such contracts is assigned, and the contracting officers or the purchasing officers in such Bureau and their duly appointed successors and duly authorized representatives.

§ 31.418 *Administrative costs.* Each Department will bear the administrative costs of procurement of the supplies and services purchased by it, and such inspection as it may perform in connection with such procurement, without reimbursement therefor.

Procurement From or by Means of Another Federal Agency

NOTE: Sections under the above headnote, which are in process of preparation and will be incorporated into this part by amendment, will deal with orders for supplies or services placed with another Federal agency pursuant to the authority of the Economy Act of June 30, 1932; 31 U. S. Code 686.

Procurement Within the Navy Department

NOTE: Sections under the above headnote, which are in process of preparation and will be incorporated into this part by amendment, will deal with project orders for supplies or services placed with Navy Department activities pursuant to the authority of the Act of July 1, 1922; 41 U. S. Code 23.

SUBPART E—CLEARANCE

§ 31.500 *Scope of subpart.* This subpart deals with the nature of contract clearance, lists the kinds of contracts which require clearance, and prescribes the procedures for obtaining clearance.

Contracts That Require Clearance

§ 31.511 *Scope of §§ 31.511 to 31.516.* Sections 31.511 to 31.516, inclusive, define clearance and enumerate the kinds of (a) negotiated contracts and (b) awards

after bid which must be cleared prior to execution.

§ 31.512 *Meaning of clearance.* Clearance (referred to, on NAVEXOS Form 1453, as "authority to contract") means approval by the Material Division, or by the Bureau of Yards and Docks as provided in § 31.516, of certain proposed purchases or rentals by the Government of supplies or services. Such approval shall be obtained, in accordance with the requirements and procedures prescribed in this subpart, prior to the execution of any contract (as defined in § 31.121-8) the amount of which is more than a specified minimum.

§ 31.513 *Contracts requiring clearance.* Clearance shall be obtained from the Material Division (M320) prior to executing a contract resulting from advertising or negotiation (or otherwise obligating the Government with respect thereto) of any one of the following kinds, and not withstanding the fact that previous clearance may have been obtained for a preliminary notice of award or a letter of intent or any other obligating document covering the same subject matter:

(a) Each new contract or amendment which by itself, or by the exercise of any option or options contained therein, or together with the furnishing of facilities under the same contract or under a related facilities contract, would obligate the Government to pay \$100,000 or more (\$50,000 or more in the case of research, experimental, or developmental work);

(b) Each exercise of an option which would obligate the Government to pay \$100,000 or more (\$50,000 in the case of research, experimental, or developmental work), irrespective of whether or not clearance may have been obtained for the contract containing such option;

(c) Each new amendment or exercise of option, itself for an amount of \$50,000 or more, which would increase to \$100,000 or more the obligation of the Government under an existing contract or any amendment thereto not previously cleared as herein provided;

(d) Each new contract or amendment in the amount of \$25,000 or more which is part of a procurement under a single requisition or requirement, the total amount of which is \$100,000 or more (\$50,000 in the case of research, experimental, or developmental work);

(e) Each new contract or amendment negotiated under the authority of § 31.313-10 (competition impracticable) if (1) there is more than one available source of supply, (2) the procurement is not one the cost or rate for which is established by law or regulation, and (3) the Government would be obligated thereunder to pay \$25,000 or more;

(f) Each new contract or amendment which contains any special clause affecting price not authorized for general use, provided that only such clause itself need be cleared whenever the contract or amendment of which it is a part does not otherwise require clearance under this section;

(g) Each agreement or amendment for redetermination of the price of a previously cleared contract, notwithstanding the fact that no change in the original contract price is involved;

(h) Each new contract in the amount of \$25,000 or more which provides for relief under section 17 of the Contract Settlement Act of 1944.

§ 31.514 *Contracts requiring reports after execution.* A full report, on such form and containing such information as the Material Division may prescribe, shall be made promptly to the Material Division (M320) upon the execution of each new contract or amendment negotiated under the authority of § 31.313-2 (public exigency) or § 31.313-10 (competition impracticable); *Provided*, That, until and unless otherwise prescribed by instructions of the Material Division, no such report is required to be made except with respect to any such new contract or amendment which would obligate the Government thereunder to pay \$25,000 or more; and *Provided further*, That no such report is required to be made with respect to any such new contract or amendment for which prior clearance is required under § 31.513.

§ 31.515 *Special requirements as to Letters of Intent.* Clearance shall be obtained for Letters of Intent, as preliminary negotiated contracts, in accordance with the requirements of § 31.513. Clearance shall also be obtained prior to extending beyond the initial term any Letter of Intent which itself required clearance hereunder.

§ 31.516 *Contracts for electric power, gas, water, and other utility services.* Prior to executing any contract for electric power, gas (natural or manufactured), water, or other utility service, and irrespective of the amount thereof, clearance shall be obtained from the Bureau of Yards and Docks in accordance with the requirements of SecNav Directive dated 21 May 1947, as amended from time to time.

Procedure for Obtaining Clearance

§ 31.520 *Scope of §§ 31.520 to 31.524.* Sections 31.520 to 31.524, inclusive, prescribe the procedure for obtaining clearance of contracts from the Material Division.

§ 31.521 *Request for clearance.* Clearance of any contract that requires clearance, as prescribed in §§ 31.511 to 31.516, inclusive, shall be requested of the Material Division (M320) on such form or forms, and with such number of copies thereof, as may be required by the Material Division.

§ 31.522 *Accompanying statement of determination and findings.* Every request for clearance of a negotiated contract shall be accompanied by a copy of such determination and findings, or the proposed statement therefor, as is required by §§ 31.320 to 31.328, inclusive, to be made by the Secretary. When an applicable class determination has already been made, however, as provided in § 31.321, a request for clearance of a negotiated contract may refer to the class determination in lieu of attaching a separate statement of determination and findings.

§ 31.523 *Other accompanying statements and supporting data.* Every request for clearance by the Material Di-

vision, as required in §§ 31.511 to 31.516, inclusive, shall also be accompanied by:

(a) A statement of such approvals as may be required by the Facilities Review Board, the Shore Stations Development Board, and any other Board or reviewing authority heretofore or hereafter established;

(b) A statement of such approval of advance payments, if any, as is required by §§ 31.340 to 31.348, inclusive;

(c) A statement justifying the negotiation of a contract or amendment under the authority of § 31.313-2 (public exigency) or § 31.313-10 (competition impracticable);

(d) A copy of any special clause affecting price not authorized for general use, together with a full explanation of its purpose and approval by Counsel for the Bureau or Office concerned (or, where there is no such Counsel, then by Counsel for the Material Division);

(e) Complete cost breakdowns or cost estimates with respect to negotiated contracts, together with an analysis of each important subcontract thereunder;

(f) List of persons and firms submitting bids or quotations, together with their respective bids or quotations;

(g) In connection with any contract for experimental, developmental, or research work, a statement as to (1) the necessity for Government-furnished facilities or advance payments, (2) the nature and extent of any related production work that will be carried on by the contractor, and (3) the nature and extent to which production contracts may be awarded as a result of such experimental, developmental, or research work and the extent to which such production contracts may be awarded to the contractor who is to perform the experimental, developmental, or research work.

§ 31.524 *Forms*. The following forms shall be used, where appropriate:

(a) Request for Authority to Contract: Navexos-1453 (Rev. 4/45) or equivalent.

(b) Request for Authority to Extend Termination Date of Letter of Intent: Navexos-807 (Rev. 1/45) or equivalent.

(c) Request for Authority to Accept Redetermination Price: Navexos-1312, or equivalent.

(d) Cost Breakdown for new negotiated contracts: Navexos-1164 (Rev. 7/1/46) or equivalent.

(e) Cost Breakdown for Redetermination: Navexos-1807 (Rev. 8/46) or equivalent.

(f) Request for Authority to Negotiate—to be prescribed later by the Material Division.

(g) Report after Execution of Contracts Negotiated under the authority of § 31.313-2 (public exigency) or § 31.313-10 (competition impracticable)—to be prescribed later by the Material Division.

SUBPART F—BONDS

NOTE: This subpart on Bonds, which is in process of preparation and will be incorporated into this part by amendment, will deal with (a) the circumstances under which bid, performance, payment, and other types of bonds are permitted or required in connection with contracts entered into by advertising or by negotiation; (b) acceptable forms of bonds; and (c) the procedures to be followed in obtaining bonds. Until this sub-

part is incorporated by amendment, the use of bonds shall be as prescribed by the Chief of any Bureau in accordance with the provisions of § 31.115.

APPENDIX A

H. R. 1366

(After passage by House and as reported by Senate Armed Services Committee July 16, 1947. This bill has not yet been enacted into law.)

An act to facilitate procurement of supplies and services by the War and Navy Departments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Armed Services Procurement Act of 1947."

SEC. 2. (a) The provisions of this act shall be applicable to all purchases and contracts for supplies or services made by the War Department, the Department of the Navy, and the United States Coast Guard (each being hereinafter called the agency), for the use of any such agency or otherwise, and to be paid for from appropriated funds.

(b) It is the declared policy of the Congress that a fair proportion of the total purchases and contracts for supplies and services for the Government shall be placed with small business concerns. Whenever it is proposed to make a contract or purchase in excess of \$10,000 by negotiation and without advertising, pursuant to the authority of paragraph (7) or (8) of section 2 (c) of this act, suitable advance publicity, as determined by the agency head with due regard to the type of supplies involved and other relevant considerations, shall be given for a period of at least fifteen days, wherever practicable, as determined by the agency head.

(c) All purchases and contracts for supplies and services shall be made by advertising, as provided in section 3, except that such purchases and contracts may be negotiated by the agency head without advertising if:

(1) Determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress;

(2) The public exigency will not admit of the delay incident to advertising;

(3) The aggregate amount involved does not exceed \$1,000;

(4) For personal or professional services;

(5) For any service to be rendered by any university, college, or other educational institution;

(6) The supplies or services are to be procured and used outside the limits of the United States and its possessions;

(7) For medicines or medical supplies;

(8) For supplies purchased for authorized resale;

(9) For perishable subsistence supplies;

(10) For supplies or services for which it is impracticable to secure competition;

(11) The agency head determines that the purchase or contract is for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or tests: *Provided*, That beginning six months after the effective date of this act and at the end of each six month period thereafter, there shall be furnished to the Congress a report setting forth the name of each contractor with whom a contract has been entered into pursuant to this subsection (11) since the date of the last such report, the amount of the contract, and, with due consideration given to the national security, a description of the work required to be performed thereunder;

(12) For supplies or services as to which the agency head determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed;

(13) For equipment which the agency head determines to be technical equipment, and as to which he determines that the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts and that such standardization and interchangeability is necessary in the public interest;

(14) For supplies of a technical or specialized nature requiring a substantial initial investment or an extended period of preparation for manufacture, as determined by the agency head, when he determines that advertising and competitive bidding may require duplication of investment or preparation already made, or will unduly delay procurement of such supplies.

(15) For supplies or services as to which the agency head determines that the bid prices after advertising therefor are not reasonable or have not been independently arrived at in open competition: *Provided*, That no negotiated purchase or contract may be entered into under this paragraph after the rejection of all bids received unless (A) notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the agency head to each responsible bidder, (B) the negotiated price is lower than the lowest rejected bid price of a responsible bidder, as determined by the agency head, and (C) such negotiated price is the lowest negotiated price offered by any responsible supplier;

(16) The agency head determines that it is in the interest of the national defense that any plant, mine, or facility or any producer, manufacturer, or other supplier be made or kept available for furnishing supplies or services in the event of a national emergency, or that the interest either of industrial mobilization in case of such an emergency, or of the national defense in maintaining active engineering, research and development, are otherwise subserved: *Provided*, That beginning six months after the effective date of this act and at the end of each six-month period thereafter, there shall be furnished to the Congress a report setting forth the name of each contractor with whom a contract has been entered into pursuant to this subsection (16) since the date of the last such report, the amount of the contract, and, with due consideration given to the national security, a description of the work required to be performed thereunder; or

(17) Otherwise authorized by law.

(d) If in the opinion of the agency head bids received after advertising evidence any violation of the antitrust laws he shall refer such bids to the Attorney General for appropriate action.

(e) This section shall not be construed to (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items to be negotiated without advertising as required by section 3, unless such contract is to be performed outside the continental United States or unless negotiation of such contract is authorized by the provisions of paragraph (1), (2), (3), (10), (11), (12) or (15) of subsection (c) of this section.

SEC. 3. Whenever advertising is required:

(a) The advertisement for bids shall be a sufficient time previous to the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the agency concerned.

(b) All bids shall be publicly opened at the time and place stated in the advertisement.

Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: Provided, That all bids may be rejected when the agency head determines that it is in the public interest so to do.

SEC. 4. (a) Except as provided in subsection (b) of this section, contracts negotiated pursuant to section 2 (c) may be of any type which in the opinion of the agency head will promote the best interests of the Government. Every contract negotiated pursuant to section 2 (c) shall contain a suitable warranty, as determined by the agency head, by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business, for the breach or violation of which warranty the Government shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

(b) The cost-plus-a-percentage-of-cost system of contracting shall not be used, and in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed 10 per centum of the estimated cost of the contract, exclusive of the fee, as determined by the agency head at the time of entering into such contract (except that a fee not in excess of 15 per centum of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's costs and not in excess of 6 per centum of the estimated cost, exclusive of fees, as determined by the agency head at the time of entering into the contract, of the project to which such fee is applicable is authorized in contracts for architectural or engineering services relating to any public works or utility project). Neither a cost nor a cost-plus-a-fixed-fee contract nor an incentive-type contract shall be used unless the agency head determines that such method of contracting is likely to be less costly than other methods or that it is impracticable to secure supplies or services of the kind or quality required without the use of a cost or cost-plus-a-fixed-fee contract or an incentive-type contract.

SEC. 5. (a) The agency head may make advance payments under negotiated contracts heretofore or hereafter executed in any amount not exceeding the contract price upon such terms as the parties shall agree; Provided, That advance payments shall be made only upon adequate security and if the agency head determines that provision for such advance payments is in the public interest or in the interest of the national defense and is necessary and appropriate in order to procure required supplies or services under the contract.

(b) The terms governing advance payments may include as security provision for, and upon inclusion of such provision there shall thereby be created, a lien in favor of the Government, paramount to all other liens, upon the supplies contracted for, upon the credit balance in any special account in which such payments may be deposited and upon such of the material and other property acquired for performance of the contract as the parties shall agree.

SEC. 6. Whenever any contract made on behalf of the Government by the agency head or by officers authorized by him so to do includes a provision for liquidated dam-

ages for delay, the Comptroller General on the recommendation of the agency head is authorized and empowered to remit the whole or any part of such damages as in his discretion may be just and equitable.

SEC. 7. (a) The determinations and decisions provided in this act to be made by the agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (b) of this section, the agency head is authorized to delegate his powers provided by this act, including the making of such determinations and decisions, in his discretion and subject to this direction, to any other officer or officers or officials of the agency.

(b) The power of the agency head to make the determination or decisions specified in paragraphs (12), (13), (14), (15), and (16) of section 2 (c) and in section 5 (a) shall not be delegable, and the power to make the determinations or decisions specified in paragraph (11) of section 2 (c) shall be delegable only to a chief officer responsible for procurement and only with respect to contracts which will not require the expenditure of more than \$25,000.

(c) Each determination or decision required by paragraphs (11), (12), (13), (14), (15), or (16) of section 2 (c), by section 4 or by section 5 (a) shall be based upon written findings made by the official making such determination, which findings shall be final and shall be available within the agency for a period of at least six years following the date of the determination. A copy of the findings shall be submitted to the General Accounting Office with the contract.

(d) In any case where any purchase or contract is negotiated pursuant to the provisions of section 2 (c), except in a case covered by paragraphs (2), (3), (4), (5), or (6) thereof, the data with respect to the negotiation shall be preserved in the files of the agency for a period of six years following final payment on such contract.

SEC. 8. No purchase or contract shall be exempt from the Act of June 30, 1936, as amended (49 Stat. 2036, as amended by the Act of June 28, 1940, 54 Stat. 681, and by the Act of May 13, 1942, 56 Stat. 277; U. S. C., title 41, secs. 35 to 45) or from the Act of March 3, 1931, as amended (46 Stat. 1494, as amended by the Act of August 30, 1935, 49 Stat. 1011, and by the Act of June 15, 1940, 54 Stat. 399; U. S. C., title 40, secs. 276a to 276a-6), solely by reason of having been entered into pursuant to section 2 (c) hereof without advertising, and the provisions of said Acts and of the Act of June 19, 1912, as amended (37 Stat. 137, as amended by the Act of September 9, 1940, 54 Stat. 884; U. S. C. title 40, secs. 324 and 325a), if otherwise applicable, shall apply to such purchases and contracts.

SEC. 9. As used herein:

(a) The term "agency head" shall mean the Secretary, Under Secretary (if any), or any Assistant Secretary of War or of the Navy, and the Commandant, United States Coast Guard, Treasury Department, respectively.

(b) The term "supplies" shall mean all property except land, and shall include, by way of description and without limitation, public works, buildings, facilities, ships, floating equipment, and vessels of every character, type and description, aircraft, parts, accessories, equipment, machine tools and alteration or installation thereof.

SEC. 10. In order to facilitate the procurement of supplies and services by each agency for others and the joint procurement of supplies and services required by such agencies, subject to the limitations contained in section 7 of this act, each agency head may make such assignments and delegations of

procurement responsibilities within his agency as he may deem necessary or desirable, and the agency heads or any of them by mutual agreement may make such assignments and delegations of procurement responsibilities from one agency to any other or to officers or civilian employees of any such agency, and may create such joint or combined offices to exercise such procurement responsibilities, as they may deem necessary or desirable. Appropriations available to any such agency shall be available for obligation for procurement as provided for in such appropriations by any other agency through administrative allotments in such amount as may be authorized by the head of the allotting agency without transfer of funds on the books of the Treasury Department. Disbursing officers of the allotting agency may make disbursements chargeable to such allotments upon vouchers certified by officers or civilian employees of the procuring agency.

SEC. 11. (a) The following acts are hereby repealed:

Revised Statutes, section 3716 (U. S. C., title 10, sec. 1202);
Revised Statutes, section 3717 (U. S. C., title 41, sec. 9);
Revised Statutes, section 3718 (U. S. C., title 34, sec. 561);
Revised Statutes, section 3719 (U. S. C., title 34, sec. 562);
Revised Statutes, section 3720 (U. S. C., title 34, sec. 563);
Revised Statutes, section 3721, as amended (U. S. C., title 34, secs. 569-570);
Revised Statutes, section 3722 (U. S. C., title 34, sec. 572);
Revised Statutes, section 3723 (U. S. C., title 34, sec. 573);
Revised Statutes, section 3724 (U. S. C., title 34, sec. 574);
Revised Statutes, section 3726 (U. S. C., title 34, sec. 577);
Revised Statutes, section 3727 (U. S. C., title 34, sec. 578);
Revised Statutes, section 3729 (U. S. C., title 34, sec. 579);
Act of June 14, 1878, Numbered 30 (20 Stat. 253; U. S. C., title 34, sec. 565);
Act of March 3, 1893 (ch. 212, sec. 1, 27 Stat. 732; U. S. C., title 34, sec. 566);
Act of March 2, 1907 (ch. 2512, 34 Stat. 1193; U. S. C., title 34 sec. 571);
Act of March 4, 1913 (ch. 148, 37 Stat. 904; U. S. C., title 34, sec. 575);
Act of June 30, 1914 (ch. 130, 38 Stat. 398; U. S. C., title 34, sec. 567);
Act of May 15, 1936 (ch. 400, 49 Stat. 1277; U. S. C., title 10, sec. 1199 (a));
Act of July 13, 1939 (ch. 265, 53 Stat. 1000; U. S. C., title 10; sec. 313);

(b) The following acts shall not apply to the procurement of supplies or services by the War Department, the Navy Department or the United States Coast Guard, Treasury Department:

Revised Statutes, section 3709, as amended (U. S. C., title 41, sec. 5);
Revised Statutes, section 3735 (U. S. C., title 41, sec. 13);
Act of October 10, 1940, ch. 851, sec. 1, 54 Stat. 1109, as amended (U. S. C., title 41, secs. 6 and 6a).

(c) The following parts of acts are hereby repealed:

(1) That portion of the act making appropriations for fortifications, approved February 24, 1891 (26 Stat. 769), relating to "Armament of fortifications", which reads as follows: "Provided, That no contract for the expenditure of any portion of the money herein provided, or that may be hereafter provided, for the purchase of steel shall be made until the same shall have been submitted to public competition by the Department by advertisement."

(2) Those portions of the Army Appropriation Acts approved March 2, 1901 (ch. 803, 31

Stat. 905; U. S. C., title 10, sec. 1201; and June 30, 1902 (32 Stat. 514), relating to "Quartermaster's Department, Regular Supplies", which read as follows: "Provided further, That hereinafter, except in cases of emergency or where it is impracticable to secure competition, the purchase of all supplies for the use of the various departments and posts of the Army and of the branches of the Army service shall only be made after advertisement, and shall be purchased where the same can be purchased the cheapest, quality and cost of transportation and the interests of the Government considered".

(3) That portion of the Army Appropriation Act approved June 12, 1906 (ch. 3078, 34 Stat. 258; U. S. C., title 10, sec. 1205), relating to "Ordnance Department", which reads as follows: "Hereafter the purchase of supplies and the procurement of services for all branches of the Army service may be made in open market, in the manner common among businessmen, when the aggregate of the amount required does not exceed five hundred dollars; but every such purchase exceeding one hundred dollars shall be promptly reported to the Secretary of War for approval, under such regulations as he may prescribe."

(4) That portion of the Army Appropriation Act, approved May 11, 1908 (ch. 163, 35 Stat. 125; U. S. C., title 10, sec. 1199), relating to "Ordnance Department", which reads as follows: "Whenever proposals are invited for the furnishing of articles of ordnance property, the character of which or the ingredients thereof are of such a nature that the interests of the public service would be injured by publicly divulging them, the Chief of Ordnance is authorized to purchase such articles in such manner as he may deem most economical and efficient."

(5) That portion of the War Department Appropriation Act, approved May 15, 1936 (49 Stat. 1299), relating to "Arms, uniforms, equipment, and so forth, for field service, National Guard", which reads as follows: "Provided, That specifications for motor vehicles, which shall be so drawn as to admit of competition, shall to the extent otherwise practicable conform with the requirements of the National Guard."

(d) All other laws and parts of laws to the extent that they are inconsistent with this act are hereby repealed.

Sec. 12. The Secretary of the Navy shall have the same authority with respect to contracts of the Department of the Navy as the Secretary of War has with respect to contracts of the War Department under the Act of April 10, 1878, as amended (20 Stat. 36, as amended by the Act of March 3, 1883, 22 Stat. 487; U. S. C., title 5, sec. 218). The Secretary of War shall have the same authority with respect to emergency purchases of war material abroad as the Secretary of the Navy has with respect to such purchases under the Act of June 30, 1914 (38 Stat. 399; U. S. C., title 34, sec. 568).

Sec. 13. This act shall become effective on October 1, 1947.

Amend the title so as to read: "An Act to facilitate procurement of supplies and services by the War and Navy Departments and the Coast Guard, and for other purposes."

Passed the House of Representatives March 20, 1947.

Attest:

JOHN ANDREWS,
Clerk.

APPENDIX B

LAWS RELATING TO PAID ADVERTISEMENTS IN NEWSPAPERS

U. S. Code, Title 44—Public Printing and Documents. Chapter 9. Advertisements

Sec. 321. *Publication of laws discontinued; proclamations and treaties; advertisements for contracts in District of Columbia.* After

March 4, 1875, the laws shall not be published in newspapers. All executive proclamations, and all treaties required by law to be published, shall be published in only one newspaper, the same to be printed and published in the District of Columbia and to be designated by the Secretary of State; and in no case of advertisement for contracts for the public service shall the same be published in any newspaper published and printed in the District of Columbia unless the supplies or labor covered by such advertisement are to be furnished or performed in said District of Columbia or in the adjoining counties of Maryland or Virginia. (As amended Aug. 2, 1946, c. 744, sec. 17 (b) 60 Stat. 811)

Sec. 322. *Rate of payment for advertisements, notices, and proposals.* All advertisements, notices, proposals for contracts, and all forms of advertising required by law for the several departments of the Government may be paid for at a price not to exceed the commercial rates charged to private individuals, with the usual discounts; such rates to be ascertained from sworn statements to be furnished by the proprietors or publishers of the newspapers proposing so to advertise. But the heads of the several departments may secure lower terms at special rates whenever the public interest requires it. (June 20, 1878, c. 359, sec. 1, 20 Stat. 216)

Sec. 323. *Advertising in District of Columbia; rate of compensation.* All advertising required by law to be done in the District of Columbia by any of the departments of the Government shall be given to one daily and one weekly newspaper of each of the two principal political parties and to one daily and one weekly neutral newspaper: *Provided*, That the rates of compensation for such service shall in no case exceed the regular commercial rate of the newspapers selected; nor shall any advertisement be paid for unless published in accordance with section 324 of this title. (Jan. 21, 1881, c. 25, sec. 1, 21 Stat. 317)

Sec. 324. *No advertisement without authority.* No advertisement, notice, or proposal for any executive department of the Government, or for any bureau thereof, or for any office therewith connected, shall be published in any newspaper whatever, except in pursuance of a written authority for such publication from the head of such department; and no bill for any such advertising, or publication, shall be paid, unless there be presented, with such bill, a copy of such written authority. (R. S. sec. 3828)

U. S. Code, Title 5—Executive Departments and Government Officers and Employees. Chapter 1. Provisions Applicable to Departments and Officers Generally

Sec. 22a. *Delegation of powers and authority to subordinate officials.* The head of any department may delegate to subordinate officials (1) the power vested in him by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his department; (2) the authority vested in him by section 675 of Title 31 to direct the purchase of articles from contingent funds; and (3) the authority vested in him by section 324 of Title 44, to authorize the publication of advertisements, notices or proposals. (Aug. 2, 1946, c. 744, sec. 12, 60 Stat. 809)

APPENDIX C

STANDARD FORMS AND PROCEDURE FOR GOVERNMENT ADVERTISING

1946—General Regulations No. 109

General Accounting Office,
Office of the Comptroller General
of the United States,
Washington 25, December 20, 1946.

General Regulations No. 66, issued January 30, 1928, and Supplement No. 1 thereto, is-

sued June 14, 1928, prescribing the standard forms and procedure for Government advertising, are hereby rescinded and, effective immediately, the following new standard forms and procedure for Government advertising, under the provisions of the Act of June 20, 1878, 20 Stat. 216 (44 U. S. C. 322), section 3828, Revised Statutes (44 U. S. C. 324), and paragraph 12 of the Act of August 2, 1946, Public No. 600 (60 Stat. 806), will be used in lieu thereof:

U. S. Government Advertising Forms

1. The following new standard forms for Government advertising are hereby prescribed and published for general use throughout the U. S. Government service, in lieu of all other forms of like character now being used for this purpose:

Standard Form No. 1142, Statement of Advertising Rates—Original.

Standard Form No. 1142a, Statement of Advertising Rates—Memorandum.

Standard Form No. 1143, Advertising Order—Original.

Standard Form No. 1143a, Advertising Order—Memorandum.

Standard Form No. 1144, Public Voucher for Advertising—Original.

Standard Form No. 1144a, Public Voucher for Advertising—Memorandum.

Printing

2. (a) The size of the above prescribed forms will be 8 by 10½ inches. The original voucher for advertising, Standard Form No. 1144, will be printed on the reverse of the original advertising order, Standard Form No. 1143. The memorandum voucher for advertising, Standard Form No. 1144a, will be printed on the reverse of the memorandum advertising order, Standard Form No. 1143a. The statement of advertising rates—original, the advertising order—original, and the voucher for advertising—original will be printed on white paper. The statement of advertising rates—memorandum, the advertising order—memorandum, and the voucher for advertising—memorandum will be printed on yellow paper.

(b) No departure from the exact specifications of the standard forms herein prescribed will be permitted, but this will not be construed to prevent a department or establishment from ordering printed on the forms used by it, when more economical and advantageous so to do, the name of the department or establishment and bureau or office, title of official(s) authorized to order publication, title of certifying officer(s), and designation of appropriation or fund chargeable.

(c) Upon receipt of these regulations each department, establishment, and agency is requested to make requisition upon the Public Printer for a supply of the new standard forms estimated to meet its needs, in order that all requisitions submitted may be combined and the forms printed in one edition. However, in the interest of economy, the present supply of unused Standard Forms Nos. 1052, 1053, 1054, and 1054a on hand in the departments and establishments and at the Government Printing Office will be used until exhausted.

Statutory Provisions With Respect to Government Advertising

3. (a) The Act of June 20, 1878, 20 Stat. 216 (44 U. S. C. 322), provides, in part, as follows:

All advertisements, notices, proposals for contracts, and all forms of advertising required by law for the several departments of the Government may be paid for at a price not to exceed the commercial rates charged to private individuals, with the usual discounts; such rates to be ascertained from sworn statements to be furnished by the proprietors or publishers of the newspapers proposing so to advertise. * * *

(b) Section 3828, Revised Statutes (44 U. S. C. 324), provides that:

No advertisement, notice, or proposal for any executive department of the Government, or for any bureau thereof, or for any office therewith connected, shall be published in any newspaper whatever, except in pursuance of a written authority for such publication from the head of such department; and no bill for any such advertising, or publication, shall be paid unless there be presented, with such bill, a copy of such written authority.

(c) Paragraph 12 of the Act of August 2, 1946, Public No. 600 (60 Stat. 806), provides, in part, as follows:

The head of any department may delegate to subordinate officials * * * (3) the authority vested in him by section 3828, Revised Statutes (44 U. S. C. 324), to authorize the publication of advertisements, notices or proposals.

Statements of Advertising Rates

4. (a) Sworn statements of commercial advertising rates, rendered on Standard Form No. 1142, and memorandum therefor, Standard Form No. 1142a, must be furnished by the proprietors, publishers or authorized representatives of newspapers, or other publications in which Government advertisements are placed, to each department and establishment, or bureau or office thereof, advertising, and the rates so furnished shall govern the amount to be paid.

(b) Sworn statements of commercial advertising rates need not be renewed until rates are changed, or unless specially required.

(c) The original statement of advertising rates, Standard Form No. 1142, must be submitted to the General Accounting Office with the first voucher paid to the publisher for advertising under those rates.

Delegation of Authority to Advertise

5. (a) Delegation of authority to advertise may be exercised only by heads of departments and establishments. That is to say, when such authority is delegated by the head of a department or establishment, it may not be redelegated. The delegation of authority to advertise may be prepared in general letter form or assigned by suitable regulations, signed by the head of the department or establishment, and should specify the limitations of authority granted, particularly with respect to the period of time covered by the authority.

(b) A copy of the general letter or regulation delegating authority to advertise must be submitted to the General Accounting Office with the first voucher making payment thereunder. Reference to the general letter or regulation will be made, in the space provided for the purpose, on all subsequent advertising orders placed during the period embraced in the authorizing general letter or regulation.

Composition of Advertising Copy

6. Extreme care should be exercised to insure that the specifications for advertising to be set other than solid be definite, clear, and specific since no allowance will be made for paragraphing or for display or leaded or prominent headings, unless specifically ordered, or for additional space required by the use of type other than that specified in the sworn statement of advertising rates on file in the General Accounting Office. Specifications for advertising other than solid will accompany the advertisement copy submitted to the publisher with the advertising order, and copies of both documents will be transmitted to the General Accounting Office with the voucher. A sample of solid line advertisement set up in accordance with the usual Government requirements is shown on Standard Form No. 1143, Advertising Order.

Public Voucher for Advertising

7. The original voucher for advertising, Standard Form No. 1144, and memorandum therefor, Standard Form No. 1144a, will be used by publishers as the standard forms on which to bill their charges against all branches of the U. S. Government service for advertising published in accordance with official orders therefor stated on the advertising order, Standard Form No. 1143, printed on the reverse of the original advertising voucher form.

Proof of Publication

8. (a) Every account for official advertising rendered should be accompanied by a copy of each issue of the publication in which the advertisement appeared. However, if copies of the publication are not available, it will be satisfactory if an affidavit of publication is furnished in lieu thereof.

(b) Copies of newspapers submitted as proof of publication should not be forwarded to the General Accounting Office as a part of the disbursing officer's account, but should be attached to the memorandum voucher and retained in the administrative accounting office until settlement of the disbursing officer's account, after which they may be disposed of.

LINDSAY C. WARREN,
Comptroller General
of the United States.

Issued November 1, 1947, to become effective January 1, 1948.

W. JOHN KENNEY,
Acting Secretary of the Navy.

[F. R. Doc. 47-11354; Filed, Dec. 26, 1947;
8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Reclamation, Department of the Interior

PART 401—APPLICATIONS FOR ENTRY ON PUBLIC LANDS AND WATER RENTALS

GILA PROJECT, ARIZONA; YUMA MESA DIVISION
AND RIVERTON IRRIGATION PROJECT, WYOMING

CROSS REFERENCE: For public notice opening public lands to entry and announcing availability of water in the Gila Project, Arizona, Yuma Mesa Division and the Riverton Irrigation Project, Wyoming, see Federal Register Documents 47-11352 and 47-11353 under Department of the Interior, Bureau of Reclamation, in the Notices section, *infra*.

PART 402—ANNUAL WATER CHARGES

TUCUMCARI IRRIGATION PROJECT, NEW
MEXICO

CROSS REFERENCE: For addition to the tabulation in § 402.2, see Federal Register Document 47-11351 under Department of the Interior, Bureau of Reclamation, in the Notices section, *infra*.

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

Subchapter A—General Rules and Regulations

[S. O. 95, Amdt. 8]

PART 95—CAR SERVICE

REFRIGERATOR CAR AGENT

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 22d day of December A. D. 1947.

Upon further consideration of the provisions of Service Order No. 95 (7 F. R. 9257), as amended (8 F. R. 17428; 10 F. R. 15175, 15354; 11 F. R. 4038, 6909; 12 F. R. 47) and good cause appearing therefor: It is ordered, that:

Service Order No. 95, as amended, be, and it is hereby, further amended by substituting the following paragraph (d) of § 95.302, *Refrigerator car agent*, for paragraph (d), thereof:

(d) This section, as amended, shall expire at 11:59 p. m., June 30, 1948, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered, That this amendment shall become effective at 12:01 a. m., December 31, 1947; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 47-11371; Filed, Dec. 26, 1947;
8:47 a. m.]

[S. O. 692, Amdt. 3]

PART 95—CAR SERVICE

RESTRICTIONS ON RECONSIGNING OF LUMBER

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 22d day of December A. D. 1947.

Upon further consideration of the provisions of Service Order No. 692 (12 F. R. 1685), as amended (12 F. R. 2479, 4143), and good cause appearing therefor: It is ordered, that:

(a) Service Order No. 692, as amended, be, and it is hereby, further amended by substituting the following paragraph (g) of § 95.692, *Lumber—Restrictions on holding for diversion or disposition*, for paragraph (g) thereof:

(g) *Expiration date.* This section shall expire at 7:00 a. m., October 10,

RULES AND REGULATIONS

1948, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered, that this order shall become effective at 12:01 a. m., December 31, 1947; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-11370; Filed, Dec. 26, 1947;
8:47 a. m.]

[S. O. 699, Amdt. 3]

PART 95—CAR SERVICE

STOCK CARS FOR PETROLEUM PRODUCTS CONTAINERS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 22d day of December A. D. 1947.

Upon further consideration of Service Order No. 699 (12 F. R. 1841), as amended (12 F. R. 2037, 4185), and good cause appearing therefor: It is ordered, that:

Section 95.699 *Stock cars for petroleum products containers*, of Service Order No. 699, as amended, be, and it is hereby, further amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This section shall expire at 11:59 p. m., August 5, 1948, un-

less otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered, that this amendment shall become effective at 12:01 a. m., December 31, 1947; that a copy of this order be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-11369; Filed, Dec. 26, 1947;
8:47 a. m.]

[Rev. S. O. 772, Amdt. 1]

PART 95—CAR SERVICE

DELIVERY OF LOADED CARS TO AHNAPPEE & WESTERN RY. CO.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 22d day of December A. D. 1947.

Upon consideration of Revised Service Order No. 772 (12 F. R. 6747), and good cause appearing therefor: It is ordered, that:

Section 95.772 *Delivery of loaded cars to Ahnappee and Western Ry. Co.*, of Revised Service Order No. 772, be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This section shall expire at 11:50 p. m., April 30, 1948, unless otherwise modified, changed, sus-

pended or annulled by order of this Commission.

It is further ordered, that this amendment shall become effective at 12:01 a. m., December 31, 1947; that a copy of this order be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-11368; Filed, Dec. 26, 1947;
8:47 a. m.]

Subchapter B—Carriers by Motor Vehicle

PART 187—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS

POSTPONEMENT OF EFFECTIVE DATE OF RULE 18 OF TARIFF CIRCULAR MF NO. 3

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 18th day of December, A. D., 1947.

Rule 18 of Tariff Circular MF No. 3 being under consideration, and good cause appearing therefor:

It is ordered, That the effective date of Rule 18 of Tariff Circular MF No. 3 (§ 187.42, 11 F. R. 13976) be, and it is hereby, postponed from January 1, 1948, until January 1, 1949.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-11372; Filed, Dec. 26, 1947;
8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Ch. IX]

[Docket No. AO 189]

HANDLING OF IRISH POTATOES GROWN IN SOUTHEASTERN STATES

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR and Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), notice is hereby

given of a public hearing to be held in the S. L. Sheep Auditorium, Elizabeth City, North Carolina, beginning at 9:30 a. m., e. s. t., January 12, 1948, and in the New Bern City Hall, New Bern, North Carolina, beginning at 9:30 a. m., e. s. t., January 15, 1948, and in the Assembly Room, County Center, Old Citadel Building, Charleston, South Carolina, beginning at 9:30 a. m. e. s. t., January 19, 1948, and in the Royal Theatre, Parkesley, Virginia, beginning at 9:30 a. m., e. s. t., January 22, 1948, with respect to a proposed marketing agreement and order regulating the handling of Irish potatoes grown in the Southeastern States production area and with respect to proposed changes, additions, and substitutions thereof. The proposed marketing agreement and order and the proposed changes, additions, and substituted pro-

visions thereof have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to economic or marketing conditions which relate to the provisions of the proposed marketing agreement and order, to the provisions of any proposed changes, additions, and substituted provisions thereof, or to any modifications of said proposals, which are hereinafter set forth. A committee of potato producers and handlers, appointed at a joint meeting of the North Carolina Producer Growers Association and the North Carolina State Potato Committee in early October, drafted a proposed marketing agreement and order regulating the handling of Irish potatoes in the proposed production area and requested a hearing thereon. Subsequent meetings of producers and

handlers discussed these proposals and resulted in similar requests for hearings from other interested groups in Virginia, South Carolina, and North Carolina, on the following proposed marketing agreement and order.

SECTION 1. Definitions. As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any other officer or member of the United States Department of Agriculture who is or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246 (1937); 7 U. S. C. 601 et seq., Supp. 5, 1939), as amended.

(c) "Person" means an individual, partnership, corporation, association, legal representative, or any organized group or business unit of individuals.

(d) "Production area" means and includes the Counties of Greenville, Sussex, Prince George, Charles City, New Kent, King William, King and Queen, Essex, Westmoreland, King George, and all counties east thereof, including Accomack and Northampton counties, in the State of Virginia; the counties of Scotland, Hoke, Barnett, Johnston, Nash, Halifax, Northampton, and all counties east thereof in the State of North Carolina; the counties of Barnwell, Orangeburg, Lexington, Richland, Sumter, Lee, Darlington, Chesterfield, and all counties east thereof, in the State of South Carolina.

(e) "Potatoes" means all varieties of Irish potatoes grown in the production area.

(f) "Handler" is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes in fresh form, whether or not of his own production.

(g) "Ship" means to transport, sell, or in any manner place potatoes in the current of interstate commerce or so as directly to burden, obstruct, or affect such commerce.

(h) "Producer" means any person engaged in the production of potatoes for market.

(i) "Fiscal year" means the period beginning on November 1 of each year and ending October 31 of the following year.

(j) "Committee" means the Administrative Committee, called the Southeastern Potato Committee, established pursuant to section 2.

(k) "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definite characteristics now or hereafter recognized by the United States Department of Agriculture.

(l) "District" means, describes, and refers to one of the geographical divisions of the production area hereby established as follows:

District No. 1:
Accomack County in the State of Virginia.

District No. 2:
Northampton County in the State of Virginia.

District No. 3:

Charles City, Elizabeth City, Essex, Gloucester, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northumberland, Richmond, Warwick, Westmoreland, York, Greenville, Isle of Wight, Nansemond, Norfolk, Prince George, Princess Anne, Southampton, Surry, and Sussex counties in the State of Virginia.

District No. 4:

Northampton, Gates, Hertford, Bertie, Chowan, Perquimans, Pasquotank, Currituck, and Camden counties in the State of North Carolina.

District No. 5:

Halifax, Nash, Edgecombe, Pitt, Martin, Washington, Tyrrell, Dare, Hyde, Beaufort, Pamlico, Craven, Carteret, Onslow, and Jones counties in the State of North Carolina.

District No. 6:

Scotland, Hoke, Harnett, Robeson, Cumberland, Sampson, Johnston, Wilson, Wayne, Greene, Lenoir, Duplin, Bladen, Columbus, Pender, New Hanover, and Brunswick counties in the State of North Carolina.

District No. 7:

Chesterfield, Darlington, Dillon, Florence, Georgetown, Horry, Marion, Marlboro, Williamsburg, Calhoun, Clarendon, Lee, Lexington, Orangeburg, Richland, Sumter, Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Dorchester, Hampton, and Jasper counties in the State of South Carolina.

Sec. 2. Administrative committee—(a) Establishment and membership. (1) The Southeastern Potato Committee, consisting of 8 producer members, is hereby established. For each member of the committee, there shall be an alternate member, who shall have the same qualifications as the member.

(2) Producers selected as members or alternates of the committee shall be individuals who are producers in the respective district for which selected, or officers or employees of a corporate producer of such district: *Provided*, That no producer shall be eligible for selection on said committee unless 51 percent or more of the potatoes handled by him during the then current fiscal year were of his own production, or unless such producer is an officer or employee of a producer's cooperative marketing association.

(b) *Terms of office.* The term of office of members and alternates of the committee shall be for 1 year beginning on the 1st day of November and continuing until the end of the then current fiscal year, and until their successors are selected and have qualified. Members and alternates of the committee shall serve during the fiscal year for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the fiscal year and continuing until the end thereof, and until their successors are selected and have qualified.

(c) *Initial committee members and alternates.* The initial members and alternates of the committee shall be selected by the Secretary for a term of office ending on October 31, 1948. In thus selecting the initial members and their respective alternates the Secretary may consider such nominations or suggestions, if any, as may be submitted by producers, handlers, and/or groups

thereof, and such nominations or suggestions may be by virtue of selections conducted by groups or producers and groups of handlers.

(d) *Nominations.* (1) Except for initial members and alternates the Southeastern Potato Committee shall hold or cause to be held prior to September 15 of each year, after the effective date hereof, a meeting of producers in each of the districts designated in section 1 (l), for the purpose of designating nominees from among whom the Secretary may select members and alternates of the committee. At each such meeting at least two nominees shall be designated for each position as member and as alternate member on the committee.

(2) In arranging for such meetings, the Southeastern Potato Committee may, if it deems such to be desirable, utilize the services and facilities of existing organizations and agencies.

(3) Nominations for successors to the committee members shall be supplied to the Secretary in such manner and form as he may prescribe, not later than 15 days prior to the date of expiration of the terms of the incumbent members and alternate members.

(4) Only producers may participate in designating nominees for producer members and alternates. Regardless of the number of districts in which he produces potatoes, each producer is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for membership on the committee for the respective district in which such producer is engaged in producing potatoes: *Provided*, That in the event a producer is engaged in producing potatoes in more than one district, such producer shall elect the district within which he shall participate in designating nominees as aforesaid. The Secretary may select the producer members of the Southeastern Potato Committee and their respective alternates, subsequent to the initial members and alternates, from nominations made by producers as provided in this section.

(e) *Selection.* The Secretary shall select two committee members, with their respective alternates, from district number 7, and one committee member, with his respective alternate, from each of the other districts, as defined in section 1 (l), which members and alternates shall represent the respective district from which they are selected.

(f) *Failure to nominate.* If nominations are not made within the time and in the manner specified by the Secretary pursuant to paragraph (d) of this section, the Secretary may, without regard to nominations, select the members and alternate members of the committee, which selection shall be on the basis of the representation provided for herein.

(g) *Acceptance.* Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary within 10 days after being notified of such selection.

(h) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or

in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in paragraph (d) of this section, or the Secretary may select such member or alternate member from previously unselected nominees on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for herein.

(i) *Alternate members.* An alternate member of the committee shall act in the place and stead of the member for whom he is alternate during such member's absence. In the event of death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for the unexpired term of such member is selected and has qualified.

(j) *Procedure.* (1) Five members shall be necessary to constitute a quorum of the committee and any action of the committee shall require five concurring votes.

(2) The committee may provide procedure for meeting by telephone, telegraph, or other means of communications, and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided*, That if an assembled meeting of the committee is held all votes shall be cast in person.

(k) *Expenses and compensation.* The members of the committee and their respective alternates when acting as members, may be reimbursed for expenses necessarily incurred by them in performance of their duties and in the exercise of their powers hereunder, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed \$5.00 per each day or portion thereof, spent in attendance at meetings of the committee. The committee shall have the power to pay expenses incurred by members in performance of official duties.

(l) *Powers.* The committee shall have the following powers:

(1) To administer the provisions hereof in accordance with its terms;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violation of the provisions hereof;

(4) To recommend to the Secretary amendments hereto.

(m) *Duties.* It shall be the duty of the committee:

(1) To act as intermediary between the Secretary and any producer or handler;

(2) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(3) To investigate the growing, shipping, and marketing conditions with respect to potatoes and to assemble data in connection therewith;

(4) To furnish to the Secretary such available information as he may request;

(5) To select subcommittees of committee members, a chairman and such other officers as may be necessary, and to adopt such rules and regulations for conduct of its business as it may deem advisable;

(6) At the beginning of each fiscal year, to submit to the Secretary a budget of its expenses for such fiscal year, together with a report thereon;

(7) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant hereto; a copy of each such report shall be furnished to the Secretary and a copy of each of such report shall be made available at the principal office of the committee for inspection by producers and handlers.

(8) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person, and

(9) To consult, cooperate and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives hereunder.

(n) *Obligations.* Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records, in his possession, to his successor in office or to a trustee designated by the Secretary and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or trustee full title to all the property, funds, and claims vested in such member pursuant hereto: *Provided*, That the provisions hereof shall apply to alternate members in possession of funds, property, books or records, or participate in the receipt or disbursement of funds.

SEC. 3. District Committees. Each member of the Southeastern Potato Committee for each respective district is authorized and empowered to establish an advisory committee of potato producers and handlers within each such district for the purpose of assisting such committee member in an advisory capacity. The size and composition of each such advisory committee shall be determined by the respective member for each such district and reports thereon shall be made available upon request to the Southeastern Potato Committee. The members of such advisory committees shall not receive compensation from any funds disbursed by the Southeastern Potato Committee.

SEC. 4. Expenses and assessments—
(a) *Expenses.* The committee is authorized to incur such expenses as the Secretary

finds may be necessary to carry out the functions of the committee pursuant to the provisions hereof during each fiscal year. The funds to cover such expenses shall be acquired by levying assessments as hereinafter provided.

(b) *Assessments.* (1) Each handler who first handles potatoes shall, with respect to the potatoes so handled by him, pay to the committee such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the committee for its maintenance and functioning during each fiscal year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year. The Secretary shall fix the rate of assessment to be paid by such handlers: *Provided*, That the rate of assessment during each fiscal year shall not exceed 1 cent per hundred-weight.

(2) At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Such increase shall be applicable to all potatoes handled during the given fiscal year. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

(c) *Accounting.* (1) If, at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

(2) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

(d) *Funds.* All funds received by the Administrative Committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements; and

(2) Whenever any person ceases to be a member of the committee, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records, in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member.

SEC. 5. Regulations—(a) *Marketing policy.* At the beginning of each fiscal year, the committee shall prepare and

submit to the Secretary a report setting forth its proposed policy for the marketing of potatoes during such fiscal year. In the event it become advisable to deviate from such marketing policy, because of changed demand and supply conditions, the committee shall formulate a new marketing policy and shall submit a report thereof to the Secretary. The committee shall notify producers and handlers of the contents of such reports.

(b) *Recommendations for regulations.*

(1) It shall be the duty of the committee to investigate the supply and demand conditions for grade, size, and quality of all varieties of potatoes. Whenever the committee finds that such conditions make it advisable to regulate the shipment of particular grades, sizes, or qualities of any or all varieties of potatoes during any period in any or all portions of the production area, it shall recommend to the Secretary the particular grades, sizes, and qualities, or any combination thereof, of all varieties of such potatoes deemed advisable to be shipped during such period.

(2) In determining the grade, size, and qualities of all varieties of potatoes or any and all combinations thereof deemed advisable to be regulated in view of the prospective demand thereof, the committee shall give due consideration to the following factors:

(i) Market prices, including prices by grades, sizes, and varieties of potatoes for which regulation is recommended;

(ii) Potatoes on hand in the market areas as manifested by supplies en route and on track at the principal markets;

(iii) Available supply, quality, and condition of potatoes in the production area and other production areas;

(iv) Supplies from competing areas and regions producing potatoes;

(v) The trend and level of consumer income, and

(vi) Other relevant factors.

(c) *Issuance of regulations.* Whenever the Secretary shall find, from the recommendations, information and evidence submitted by the committee, or from other available information, that to limit the shipment of any or all varieties of potatoes to particular grades, sizes, and qualities thereof in any or all portions of the production area would tend to effectuate the declared policy of the act, he shall so limit by appropriate regulations thereon the shipments of such potatoes during a specified period. The Secretary shall notify the committee of any such regulation and the committee shall give reasonable notice thereof to handlers.

(d) *Inspection and certification.* The Southeastern Potato Committee may, with approval of the Secretary, require that each first handler shall, prior to making each shipment of potatoes, cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Each handler shall make arrangements with the inspecting agency to forward promptly to the committee a copy of each inspection certificate, issued as aforesaid.

(e) *Exemptions.* (1) The committee may adopt, subject to approval by the

Secretary, and shall announce the procedure pursuant to which certificates of exemption will be issued to producers.

(2) The committee may cause to be issued certificates of exemption to any producer who furnishes adequate evidence to the committee that by reason of a regulation issued pursuant to this section he will be prevented from shipping as large a proportion of his own production as the average of all producers in said producer's district. The committee or its authorized representative shall be permitted at any time to make a thorough investigation of any producer claim pertaining to exemptions. Such certificate shall permit the producer to market the amount of potatoes specified thereon. Such certificates may be transferred with such potatoes at time of sale.

(3) If any producer is dissatisfied with the determination by the committee with respect to the producer's application for an exemption certificate, said producer may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any producer filing an appeal shall furnish evidence satisfactory to the committee, for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination, concerning the certificate of exemption to be granted. The committee shall notify the appellant of the final determination and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

(4) The Secretary shall have the right to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to this section.

(5) Records shall be maintained by the committee and a weekly report furnished to the Secretary showing the applications received, exemptions granted, exemptions denied and shipments made under exemptions.

SEC. 6. *Regulation of surplus.* (a) It shall be the duty of the committee to investigate supply and demand conditions for potatoes. Whenever the committee finds that a surplus of potatoes exists in the production area, it shall determine the extent of such surplus of potatoes of any variety, grade, size or quality. If it is deemed advisable, the committee shall recommend the control and disposition of such surplus potatoes and plans for equalizing the burden of surplus elimination or control among the producers and handlers thereof under uniform rules established by the committee and approved by the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that the control and disposition of surplus potatoes will tend to effectuate the declared policy of the act, he shall, by appropriate regulations, control and dispose of such surplus potatoes and shall further provide for equalizing the burden of such surplus elimination or control among producers and handlers thereof.

SEC. 7. *Limitation of regulations.* Nothing contained herein shall authorize any limitation of the shipment of potatoes for any of the following purposes:

(a) Potatoes shipped for consumption by charitable institutions or for distribution by relief agencies;

(b) Potatoes shipped for manufacturing or conversion into by-products, except for manufacturing or conversion into specified products recommended by the committee for regulation and approved by the Secretary therefor; and

(c) Upon recommendation of the committee and approval of the Secretary, potatoes shipped for livestock feed or for other specified purposes. The Secretary shall give prompt notice to the committee of any approval issued by him under the provisions of this section. The committee may prescribe adequate safeguards to prevent potatoes shipped for the purposes stated above from entering the current of commerce or directly burdening, obstructing, or affecting such commerce contrary to the provisions hereof, which safeguards may include Federal-State inspection provided by section 5 (d) and the payment of a pro rata share of expenses provided by section 4; *Provided*, That such inspection and payment of expenses may be required at different times than otherwise specified by the aforesaid sections. The committee shall issue Certificates of Privilege for shipments of potatoes effected or to be effected under the provisions of this section and shall make a weekly report to the Secretary showing the number of certificates applied for, the number of bushels of potatoes covered by such applications, the number of certificates denied and granted, the number of bushels of potatoes shipped under duly issued certificates, and such other information as may be requested by the Secretary. The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

SEC. 8. *Reports.* Upon the request of the committee, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its duties hereunder. The Secretary shall have the right to modify, change or rescind any reports requested pursuant to this section.

SEC. 9. *Compliance.* Except as provided herein, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions hereof, and no handler shall ship potatoes except in conformity to the provisions hereof.

SEC. 10. *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee, shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the

PROPOSED RULE MAKING

disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 11. Effective time and termination—(a) Effective time. The provisions hereof shall become effective at such time as the secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) Termination. (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operations of any or all of the provisions hereof whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effected only if announced on or before October 31 of the then current fiscal year.

(4) The Secretary shall terminate the provisions hereof at the end of any fiscal year, upon the written request of handlers signatory hereto who submit evidence satisfactory to the Secretary that they handled not less than 67 percent of the total volume of potatoes handled by the signatory handlers during the preceding fiscal year; but such termination shall be effective only if announced on or before October 31 of the then current fiscal year.¹

(5) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them, cease to be in effect.

(c) Proceedings after termination. (1) Upon the termination of the provisions hereof, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all funds and the property then in the possession of, or under control of the committee, including claims for any funds unpaid, or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of

the funds, property, and claims vested in the committee or the trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been transferred, or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

SEC. 12. Effect of termination or amendment. Unless otherwise expressly provided by the Secretary, the termination hereof, or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty obligation, or liability which shall have arisen, or which may thereafter arise in connection with any provision hereof, or any regulation issued hereunder, or (b) release or extinguish any violation hereof, or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary, or of any other person with respect to any such violation.

SEC. 13. Duration of immunities. The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

SEC. 14. Agents. The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

SEC. 15. Derogation. Nothing contained herein is, or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

SEC. 16. Personal liability. No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

SEC. 17. Separability. If any provision hereof is declared invalid, or the applicability thereof to any persons, circumstances, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

SEC. 18. Amendments. Amendments hereto may be proposed from time to time by the committee or by the Secretary.

SEC. 19. Counterparts. This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instru-

ment as if all signatures were contained in one original.¹

SEC. 20. Order with marketing agreement. Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of potatoes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.¹

SEC. 21. Additional parties. After the effective date hereof, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.¹

The Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington, D. C., has proposed the following changes, additions, and substitutions in, to and for provisions of the proposed marketing agreement and order:

1. Change section 5 (d), and (e) to sections 5 (e) and (f), respectively, and insert the following change as section 5 (d):

(d) *Minimum standards of quality and maturity—(1) Recommendation.* Whenever the Southeastern Potato Committee deems it advisable to establish and maintain minimum standards of quality, or minimum standards of maturity, or both, governing the shipment of any or all varieties of potatoes pursuant hereto, it shall recommend to the Secretary such minimum standards of quality, or minimum standards of maturity, or both, in terms of grade, size, both, or otherwise, below which shipments are to be prohibited. At the time of submitting each such recommendation, the Southeastern Potato Committee shall also submit to the Secretary the supporting data and information upon which it acted in making such recommendation. The committee shall submit in support of its recommendations such other data and information as may be requested by the Secretary, and shall promptly give adequate notice to all handlers and growers of each such recommendations.

(2) *Establishment.* Whenever the Secretary finds, from the recommendations and information submitted by the Southeastern Potato Committee, or from other available information, that to prohibit the shipment of potatoes of any or all varieties below certain specified minimum grades, or smaller than certain specified minimum sizes, or both, would be in the public interest and would tend to effectuate the declared policy of the act, he shall so prohibit the shipment of such potatoes. The Secretary shall immediately notify the Southeastern Potato Committee of the issuance of each such regulation, and the committee shall promptly give adequate notice thereof to handlers and growers.

(3) *Modification or suspension.* The Southeastern Potato Committee may

¹ Applicable only to the proposed marketing agreement.

recommend to the Secretary the modification, suspension, or termination of orders relating to minimum standards provided for or established pursuant hereto. If the Secretary finds, upon the basis of such recommendation and information, or upon the basis of other available information, that to modify, suspend, or terminate such orders relating to minimum standards of quality, or minimum standards of maturity, or both, will tend to effectuate the declared policy of the act, he shall so modify or suspend such standards for (i) a specified period of time, or (ii) for an indefinite period of time; *Provided*, That modifications, suspensions, or terminations promulgated pursuant hereto, may apply to any or all varieties of potatoes and may apply and establish or terminate different minimum standards of maturity and quality to one or more varieties of potatoes than are established or terminated for the remaining varieties of potatoes. The Secretary shall immediately notify the Southeastern Potato Committee and the committee shall promptly notify handlers, of any order issued by the Secretary modifying, suspending, or terminating any orders relating to minimum standards of quality, or minimum standards of maturity, or both, established pursuant hereto or provided for herein.

3. Substitute the following for section 2 (m) (3):

(3) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and to engage in such research and service activities which relate to the handling or marketing of potatoes as may be approved by the Secretary.

4. Substitute a comma for the period after the word Carolina at the end of subsection 1 (d) and add the following: "and the counties of Somerset, Wicomico, and Worcester in the State of Maryland."

Add, at the end of subsection 1 (1), the following: "District No. 8, Somerset, Wicomico, and Worcester counties in the State of Maryland."

5. Substitute for section 2 (a) the following:

(1) The Southeastern Potato Committee, consisting of 9 producer members, is hereby established. For each member of the committee, there shall be an alternate member, who shall have the same qualifications as the member.

6. The Fruit and Vegetable Branch, Production and Marketing Administration, further proposed that consideration be given to such other changes in the proposed marketing agreement and order as may be necessary to make the entire marketing agreement and order conform to the provisions of the substitutions, additions, and changes proposed.

Copies of this notice of hearing may be procured from the Hearing Clerk, United States Department of Agriculture, Room 1846, South Building, Washington 25, D. C., or may be there inspected.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator.

[F. R. Doc. 47-11393; Filed, Dec. 26, 1947;
8:50 a. m.]

17 CFR, Part 511

UNITED STATES STANDARDS FOR FRESH SPINACH LEAVES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given under the authority contained in the Department of Agriculture Appropriation Act for 1948 (Pub. Law 266, 80th Cong., 1st Sess., approved July 30, 1947), that the United States Department of Agriculture is considering the issuance, as hereinafter proposed, of the United States Consumer Standards for Fresh Spinach Leaves. This is the first issue of these standards which are proposed to become effective during the month of February 1948.

These permissive standards are suggested with the view that when spinach leaves are sorted to meet the requirements of such standards, and containers are marked as to grade and other pertinent information, consumers will have greater opportunities to purchase the quality of spinach leaves they desire. The standards may also be used as a basis of contract between distributors and retailers as well as a basis of sale to consumers. The proposed standards are as follows:

§ 51.394 *Consumer standards for fresh spinach leaves*—(a) *Grades*. (1) U. S. Grade A shall consist of spinach leaves of similar varietal characteristics which are fresh, clean, well trimmed, and of reasonably good green color, and which are free from coarse stalks, seedstems, seedbuds, crowns and roots, sandburs or other kinds of burs, soft rot and from damage caused by clusters of leaves, leaf stems without blades, discoloration, freezing, foreign material, disease, insects, mechanical or other means. Spinach on the shown face shall be reasonably representative in size and quality of the contents of the container.

(i) Incident to proper grading and handling not more than 7 percent, by weight, of the spinach in any lot may be small pieces of leaves, not more than 3 percent of the spinach leaves may be damaged by clusters, and not more than 3 percent may fail to meet the remaining requirements of the grade, including not more than 1 percent for serious damage; *Provided*, That no tolerance shall be permitted for sandburs or other kinds of burs.

(2) U. S. Grade B shall consist of spinach leaves which meet the requirements for U. S. Grade A, except that they shall be reasonably clean, and except for the increased tolerances for defects specified below.

(i) Incident to proper grading and handling, not more than 15 percent, by weight, of the spinach in any lot may be small pieces, not more than 5 percent of the spinach leaves may be damaged by clusters, and not more than 5 percent may fail to meet the remaining requirements of the grade, including not more than 2 percent for serious damage, provided, that no tolerance shall be permitted for sandburs or other kinds of burs.

(b) *Off-Grade spinach leaves*. Spinach leaves which fail to meet the requirements of either of the foregoing grades shall be Off-Grade spinach leaves.

(c) *Definitions*. (1) "Similar varietal characteristics" means that the spinach shall be generally of one type, as crinkly leaf type, or flat leaf type. No mixture of varieties shall be permitted which materially affects the appearance of the lot.

(2) "Fresh" means that the leaves are not more than slightly wilted.

(3) "Clean" means that the spinach does not show more than a trace of grit, sand, dirt, silt, muck or other similar water insoluble, inorganic material.

(4) "Well trimmed" means that the leaf stems or petioles are not excessively long in relation to the size of the leaf blades.

(5) "Damage" means any injury or defect which materially affects the appearance, or the edible, shipping or keeping quality of the individual leaves or of the lot as a whole. The following defects or any combination of defects the seriousness of which exceeds the amount allowed for any one defect shall be considered as damage:

(i) Clusters, when there are more than 3 leaves attached, except that clusters of heart leaves with any number of leaves shall not be considered as damaged, provided the length of the longest leaf in the cluster is not over 3 inches.

(ii) Leaf stems without blades attached when present to such an extent as to materially affect the appearance of the lot, or when the individual stem is damaged.

(iii) Discoloration, when the appearance of the leaf is materially affected. Heart leaves which are yellow or partially blanched shall not be considered as damaged by discoloration.

(iv) Mechanical damage, when the leaf is very badly crushed, torn, or broken. (Owing to the many necessary handlings in the harvesting, icing, shipping, sorting, washing, and packing operations in preparing spinach for consumer use some leaves are crushed, torn or broken but only those leaves which are very badly crushed, torn or broken shall be considered as damaged by mechanical means.)

(6) "Serious damage" means any injury or defect which seriously affects the appearance, or the edible, shipping or keeping quality of the individual leaves or of the lot as a whole. The following defects shall be considered as serious damage:

(i) Badly discolored leaves.

(ii) Leaves severely affected by mildew or white rust.

(iii) Leaves on which insects are present, or leaves which are seriously damaged by insects.

(iv) Leaves which are affected by soft rot.

(v) Weeds, grass or pieces thereof, and other extraneous matter.

(7) "Reasonably clean" means that the spinach is reasonably free from grit, sand, dirt, silt, muck or other similar water insoluble, inorganic material.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed standards shall file the same in quadruplicate with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington, D. C., not later than 5:30 p. m., e. s. t.,

on the 20th day after the publication of this notice in the **FEDERAL REGISTER**.

Done at Washington, D. C., this 22d day of December 1947.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator,
Production and Marketing
Administration.

[F. R. Doc. 47-11392; Filed, Dec. 26, 1947;
8:50 a. m.]

17 CFR, Part 1621

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO ISSUANCE OF AN EXEMPTION OF ECONOMIC POISONS

Representatives of trade associations which include a large proportion, on a volume basis, of the economic poison industry have applied for exemption from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act of certain economic poisons which were or will be labeled, shipped, and delivered by the manufacturer thereof prior to December 25, 1947, in the case of herbicides and rodenticides and prior to June 25, 1948, in the case of insecticides and fungicides. It is represented that there are large stocks of these materials in the channels of trade which do not fully comply with the requirements of the act; that in the case of herbicides and rodenticides these

are effective for the purposes intended and not likely to cause injury to the public when used as directed, and in the case of insecticides and fungicides, they comply with the provisions of the Insecticide Act of 1910; that their marketing will not be unduly detrimental to the public interest; that the repackaging or relabeling of these materials is not practical and that the prohibition of marketing them under the new law would result in keeping from the market pest control products which are vitally necessary for the production and protection of food and fiber supplies.

In view of these representations and by virtue of sections 6a and 15 of the Federal Insecticide, Fungicide, and Rodenticide Act, approved June 25, 1947 (61 Stat. 163; 7 U. S. C. 135 et seq.), notice is hereby given pursuant to the requirements of section 4 of the Administrative Procedure Act (60 Stat. 237) that it is proposed to issue a rule exempting from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act normal stocks of economic poisons which are labeled, shipped, and delivered by the manufacturer thereof prior to December 25, 1947, in the case of rodenticides and herbicides, and prior to June 25, 1948 in the case of insecticides and fungicides, subject to the following conditions:

1. In the case of an insecticide or fungicide, the economic poison must not be in violation of the provisions of the Insecticide Act of 1910.

2. In the case of a rodenticide or herbicide, it must be effective for the purposes intended and not likely to cause injury to the public when used as directed.

3. The period of exemption is limited to one year from the date upon which the act became effective with respect to the particular product—that is, the exemption expires on December 25, 1948 in the case of rodenticides and herbicides; and on June 25, 1949, in the case of insecticides and fungicides.

4. This exemption may be revoked at any time, either as a whole or as it applies to any particular product if such action appears to be in the public interest.

All interested person are hereby afforded the opportunity of submitting their views in writing on the proposed exemption within five days after the publication of this notice in the **FEDERAL REGISTER**. Communications should be addressed to the Insecticide Division, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

Done at Washington, D. C., this 22d day of December 1947.

[SEAL] H. E. REED,
Director, Livestock Branch, Pro-
duction and Marketing Ad-
ministration.

[F. R. Doc. 47-11365; Filed, Dec. 26, 1947;
8:47 a. m.]

NOTICES

TREASURY DEPARTMENT

United States Coast Guard

[CGFR 47-38]

APPROVAL AND TERMINATION OF APPROVAL OF EQUIPMENT

CORRECTION OF PRIOR DOCUMENT

By virtue of the authority vested in me by R. S. 4405 and 4491, as amended (46 U. S. C. 375 and 489), and section 101, Reorganization Plan No. 3 of 1946 (11 F. R. 7875), the following corrections shall be made in Coast Guard document CGFR 47-38, Federal Register document 47-7118, filed July 30, 1947, and published in the **FEDERAL REGISTER** dated July 31, 1947, 12 F. R. 5185 et seq.:

1. Under "Buoyant Cushions, Non-Standard," 12 F. R. 5188, 5189, 5191, in Approval No. 160.008/2/0, the weight "24 oz." should be "21 oz."; in Approval No. 160.008/3/0, the weight "18 oz." in both seat and back should be "17 oz."; in Approval No. 160.008/4/0, the weight "24 oz." should be "25 oz."; in Approval No. 160.008/5/0, the weight "52 oz." should be "51 oz."; in Approval No. 160.008/6/0, the weight "39 oz." should be "38 oz."; in Approval No. 160.008/8/0, the weight "24 oz." should be "21 oz."; in Approval No. 160.008/10/0, the weight "18 oz." should be "17 oz." and the weight "20 oz." should be "22 oz."; in Approval No. 160.008/11/0, the weight "20 oz." should be "22 oz."; in Approval No. 160.008/21/0, the weight

"20 oz." should be "21 oz."; in Approval No. 160.008/26/0, the weight "38 oz." should be "45 oz."; in Approval No. 160.008/47/0, the weight "56 oz." should be "64 oz."; in Approval No. 160.008/60/0, the weight "22 oz." should be "23 oz."; in Approval No. 160.008/62/0, the weight "30 oz." should be "36 oz."; in Approval No. 160.008/63/0, the weight "20 oz." should be "22 oz."; in Approval No. 160.008/64/0, the weight "24 oz." should be "25 oz."

2. Under "Buoyant Cushions, Non-Standard," 12 F. R. 5192, 5193, 5194, 5196, in Approval No. 160.008/134/0, the weight "100 oz." should be "101 oz."; in Approval No. 160.008/139/0, the dimension "30" should be "31"; in Approval No. 160.008/144/0, the weight "21 oz." should be "22 oz."; in Approval No. 160.008/146/0, the weight "55 oz." should be "56 oz."; in Approval No. 160.008/147/0, the weight "20 oz." should be "25 oz."; in Approval No. 160.008/149/0, the weight "14 oz." should be "19 oz."; in Approval No. 160.008/152/0, the weight "20 oz." should be "21 oz."; in Approval No. 160.008/165/0, the weight "20 oz." should be "26 oz."; in Approval No. 160.008/167/0, the weight "20 oz." should be "23 oz."; in Approval No. 160.008/168/0, the weight "24 oz." should be "29 oz."; in Approval No. 160.008/181/0, the weight "20 oz." should be "22 oz."; in Approval No. 160.008/195/0, the weight "20 oz." should be "22 oz."; in Approval No. 160.008/196/0, the weight "20 oz." should be

"21 oz."; in Approval No. 160.008/197/0, the weight "20 oz." should be "22 oz."; in Approval No. 160.008/292/0, the weight "20 oz." should be "21 oz."

3. Under heading "Buoyant Apparatus" in Approval No. 160.010/10/0, the "Drawing No. 1519 dated 31 October 1935" should be "Drawing No. 1840 dated 14 June 1940."

4. The heading "Life Rafts (Cata-maran type)" should be "Life Rafts," 12 F. R. 5201.

5. Under "Lifeboats" in Approval No. 160.035/18/0, the phrase "24-person" should be "25-person"; in Approval Nos. 160.035/23/0 and 160.035/25/0, the phrase "T-bar keel" should be inserted immediately before the word "Lifeboat."

6. Under the heading "Lifeboats" the Approval No. 160.035/114/0 is canceled and the following should be substituted in its stead:

Approval No. 160.035/114/0, 26.0' x 7.67' x 3.92' wood, motor-propelled lifeboat, without radio cabin, approved for Hawaiian waters only, 43-person capacity, identified by drawing job No. 3302, dated 27 June 1941, manufactured by Inter-Island Steam Navigation Co., Ltd., Honolulu, T. H.

7. Under "Boilers, Heating," 12 F. R. 5223, Approval No. 162.003/2/0, should be canceled and the following Approval Nos. substituted in its stead:

Approval No. 162.003/2/0, Model "Arco" heating boiler, cast iron sectional and round firepot construction, Catalog

No. 605 (Revised) October 1941, maximum working pressure 15 p. s. i., manufactured by American Radiator & Standard Sanitary Corporation, Bessemer Building, Pittsburgh 22, Pa.

Approval No. 162.003/42/0, Model "Ideal" heating boiler, cast iron sectional and round firepot construction, Catalog No. 605 (Revised) October 1941, maximum working pressure 15 p. s. i., manufactured by American Radiator & Standard Sanitary Corporation, Bessemer Building, Pittsburgh 22, Pa.

8. Under heading "Boilers, Heating," Approval No. 162.003/6/0, should be canceled and the following approval numbers substituted in its stead:

Approval No. 162.003/6/0, Model 19" oil saver, Columbia heating boiler, cast iron construction, maximum working pressure 15 p. s. i., manufactured by Columbia Radiator Co., McKeesport, Pa.

Approval No. 162.003/44/0, Model No. 50, Columbia heating boiler, cast iron construction, maximum working pressure 15 p. s. i., manufactured by Columbia Radiator Co., McKeesport, Pa.

Approval No. 162.003/43/0, Model No. 70, Columbia heating boiler, cast iron construction, maximum working pressure 15 p. s. i., manufactured by Columbia Radiator Co., McKeesport, Pa.

Approval No. 162.003/45/0, Model No. 100, Columbia heating boiler, cast iron construction, maximum working pressure 15 p. s. i., manufactured by Columbia Radiator Co., McKeesport, Pa.

Approval No. 162.003/46/0, Model No. 200, Columbia heating boiler, cast iron construction, maximum working pressure 15 p. s. i., manufactured by Columbia Radiator Co., McKeesport, Pa.

Approval No. 162.003/47/0, Model No. 300, Columbia heating boiler, cast iron construction, maximum working pressure 15 p. s. i., manufactured by Columbia Radiator Co., McKeesport, Pa.

9. Under heading "Boilers, Heating," Approval No. 162.003/8/0, should be canceled and the following approval numbers substituted in its stead:

Approval No. 162.003/8/0, series 10, cast iron heating boiler, circular Nos. AD-1316 and AD-1319, maximum working pressure 15 p. s. i., manufactured by Crane Co., 836 South Michigan Ave., Chicago 5, Ill.

Approval No. 162.003/48/0, series 110, cast iron heating boiler, circular Nos. AD-1316 and AD-1319, maximum working pressure 15 p. s. i., manufactured by Crane Co., 836 South Michigan Ave., Chicago 5, Ill.

10. Under heading "Boilers, Heating" the Approval No. 162.003/12/0 should be canceled and the following approval numbers substituted in its stead:

Approval No. 162.003/12/0, Model DH-3, Delco domestic heating boiler, sectional cast iron construction, fin type, oil fired, Catalog No. DEP-327R-SM-8-37-(17), maximum working pressure 15 p. s. i., manufactured by Delco Appliance Division, General Motors Corporation, Lyell and Whitney Streets, Rochester, N. Y.

Approval No. 162.003/49/0, Model DH-4, Delco domestic heating boiler, sectional cast iron construction, fin type, oil fired, Catalog No. DEP-327R-SM-8-37-

(17), maximum working pressure 15 p. s. i., manufactured by Delco Appliance Division, General Motors Corporation, Lyell and Whitney Streets, Rochester, N. Y.

Approval No. 162.003/50/0, Model DL-5, Delco domestic heating boiler, sectional cast iron construction, fin type, oil fired, Catalog No. DEP-327R-SM-8-37-(17), maximum working pressure 15 p. s. i., manufactured by Delco Appliance Division, General Motors Corporation, Lyell and Whitney Streets, Rochester, N. Y.

Approval No. 162.003/51/0, Model DL-6, Delco domestic heating boiler, sectional cast iron construction, fin type, oil fired, Catalog No. DEP-327R-SM-8-37-(17), maximum working pressure 15 p. s. i., manufactured by Delco Appliance Division, General Motors Corporation, Lyell and Whitney Streets, Rochester, N. Y.

11. Under heading "Boilers, Heating" the Approval No. 162.003/13/0 should be canceled and the following substituted in its stead:

Approval No. 162.003/13/0, Model DB-3, Delco domestic heating boiler, sectional cast iron construction, fin type, oil or gas fired, maximum working pressure 15 p. s. i., manufactured by Delco Appliance Division, General Motors Corporation, Lyell and Whitney Streets, Rochester, N. Y.

Approval No. 162.003/52/0, Model DB-4, Delco domestic heating boiler, sectional cast iron construction, fin type, oil or gas fired, maximum working pressure 15 p. s. i., manufactured by Delco Appliance Division, General Motors Corporation, Lyell and Whitney Streets, Rochester, N. Y.

Approval No. 162.003/53/0, Model DB-5, Delco domestic heating boiler, sectional cast iron construction, fin type, oil or gas fired, maximum working pressure 15 p. s. i., manufactured by Delco Appliance Division, General Motors Corporation, Lyell and Whitney Streets, Rochester, N. Y.

12. Under "Boiler Feed Water Regulators and Low Water Alarms," 12 F. R. 5234, the Approval No. 162.024/7/0 should be canceled and the following substituted in its stead:

Approval No. 162.024/7/0, "Peco-Cambell" series 30, boiler feed water regulating and signaling system, fitted with pump control for high-low water level signal and alarm panels, Dwg. No. 300-1, revised 7 July 1945, approved for maximum working pressure of 300 p. s. i., manufactured by Proctor Engineering Co., 106 Key Highway, Baltimore, Md.

Approval No. 162.024/9/0, "Peco-Cambell" series 60, boiler feed water regulating and signaling system, fitted with pump control for high-low water level signal and alarm panels, Dwg. No. 600-1, revised 7 July 1945, approved for maximum working pressure of 600 p. s. i., manufactured by Proctor Engineering Co., 106 Key Highway, Baltimore, Md.

13. Under "Secondary Boiler Feed Water Indicator," 12 F. R. 5234, Approval No. 162.025/5/0 should be canceled and the following approval numbers substituted in its stead:

Approval No. 162.025/5/0, Type LS 1, secondary boiler water gauge, remote water level indicator and recorder, Dwg. Nos. C 304886-C, revised 22 September 1941, C 305511-A, dated 17 September 1941, and D 34900F, dated 3 October 1940, manufactured by Bailey Meter Co., 1050 Ivanhoe Road, Cleveland, Ohio.

Approval No. 162.025/28/0, Type LS 35, secondary boiler water gauge, remote water level indicator and recorder, Dwg. Nos. C 304886-C, revised 22 September 1941, C 305511-A, dated 17 September 1941, and D 34900F, dated 3 October 1940, manufactured by Bailey Meter Co., 1050 Ivanhoe Road, Cleveland, Ohio.

Approval No. 162.025/29/0, Type LS 47, secondary boiler water gauge, remote water level indicator and recorder, Dwg. Nos. C 304886-C, revised 22 September 1941, C 305511-A, dated 17 September 1941, and D 34900F, dated 3 October 1940, manufactured by Bailey Meter Co., 1050 Ivanhoe Road, Cleveland, Ohio.

14. Under "Secondary Boiler Feed Water Level Indicator," 12 F. R. 5234, Approval No. 162.025/6/0 should be canceled and the following approval numbers substituted in its stead:

Approval No. 162.025/6/0, Figure 4312, boiler water gauge, remote water level indicator, marine type, Dwg. No. EL-904-971, dated 19 February 1946, approved for maximum steam pressure of 125 p. s. i., manufactured by Yarnall-Waring Co., Chestnut Hill, Philadelphia 18, Pa.

Approval No. 162.025/30/0, Figure 4314, boiler water gauge, remote water level indicator, marine type, Dwg. No. EL-904-972, dated 18 February 1946, approved for maximum steam pressure of 600 p. s. i., manufactured by Yarnall-Waring Co., Chestnut Hill, Philadelphia 18, Pa.

Approval No. 162.025/31/0, Figure 4316, boiler water gauge, remote water level indicator, marine type, Dwg. No. EL-904-973, dated 18 February 1946, approved for maximum steam pressure of 900 p. s. i., manufactured by Yarnall-Waring Co., Chestnut Hill, Philadelphia 18, Pa.

Approval No. 162.025/32/0, Figure 4318, boiler water gauge, remote water level indicator, marine type, Dwg. No. EL-904-974, dated 16 February 1946, approved for maximum steam pressure of 1500 p. s. i., manufactured by Yarnall-Waring Co., Chestnut Hill, Philadelphia 18, Pa.

Dated: December 19, 1947.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 47-11342; Filed, Dec. 26, 1947;
8:47 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[Public Notice 4]

GILA PROJECT, ARIZONA; YUMA MESA
DIVISION

PUBLIC NOTICE ANNOUNCING AVAILABILITY
OF WATER FOR PUBLIC, STATE AND PRIVATE
LANDS AND OPENING OF PUBLIC LANDS TO
ENTRY

DECEMBER 10, 1947.

1. Lands for which water will be available. It is hereby announced that in

NOTICES

pursuance of the act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof and supplementary thereto, and in accordance with the terms, conditions, and charges herein provided, water will be available during the calendar year 1948 and thereafter for certain irrigable lands on the Yuma Mesa Division of the Gila Project, as shown on approved farm unit plats on file in the office of the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona, and in the District Land Office at Phoenix, Arizona; and that application may be made in accordance with this notice beginning at 2:00 p. m., December 30, 1947, for entry on the public lands shown on said plats and described hereunder. The lands to which this notice pertains are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZ.

PUBLIC LAND

Section	Farm unit	Description	Total irrigable acres
Township 9 South, Range 23 West			
6	A	Lot 11, SE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ & SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	105.74
	B	Lot 9, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ & E $\frac{1}{2}$ SW $\frac{1}{4}$	117.41
7	A	NE $\frac{1}{4}$ NE $\frac{1}{4}$	36.65
	B	NW $\frac{1}{4}$ NE $\frac{1}{4}$	37.63
	C	Lot 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T. 9 S., R. 22 W., SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 12, T. 9 S., R. 23 W.	115.52
	D	SE $\frac{1}{4}$ NE $\frac{1}{4}$	38.00
	E	SE $\frac{1}{4}$ SE $\frac{1}{4}$	37.52
	F	SW $\frac{1}{4}$ SE $\frac{1}{4}$	37.94
	G	Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 7, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 18	114.30
18	A	E $\frac{1}{2}$ NE $\frac{1}{4}$ & SW $\frac{1}{4}$ NE $\frac{1}{4}$	114.85
	B	NW $\frac{1}{4}$ NE $\frac{1}{4}$	36.99
	C	Lots 2, 2 & SE $\frac{1}{4}$ NW $\frac{1}{4}$	113.18
	D	Lots 3, 4 of Sec. 18, and Lots 1, 5 of Sec. 19	130.49
	E	E $\frac{1}{2}$ SW $\frac{1}{4}$ & SW $\frac{1}{4}$ SE $\frac{1}{4}$	114.61
	F	E $\frac{1}{2}$ SE $\frac{1}{4}$ & NW $\frac{1}{4}$ SE $\frac{1}{4}$	114.75
19	A	Lots 6, 7, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ & SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$	146.31
	B	Lots 4, 8, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$	100.95
Township 9 South, Range 23 West			
2	A	Lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$	139.01
9	A	SE $\frac{1}{4}$ NE $\frac{1}{4}$	35.92
	B	SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ & SE $\frac{1}{4}$ SW $\frac{1}{4}$	155.72
12	A	SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ & NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$	136.65
	E	S $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ & NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	106.19
13	A	Lots 1, 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$ & NE $\frac{1}{4}$ SE $\frac{1}{4}$	111.48
	B	Lots 2, 3, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 13, and S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ & NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 12	96.12
13	C	SW $\frac{1}{4}$	149.73
	D	S $\frac{1}{2}$ SE $\frac{1}{4}$ & NW $\frac{1}{4}$ SE $\frac{1}{4}$	117.73
21	A	NE $\frac{1}{4}$ NE $\frac{1}{4}$	36.86
	B	NW $\frac{1}{4}$ NE $\frac{1}{4}$	37.27
	C	E $\frac{1}{2}$ NW $\frac{1}{4}$	76.96
	D	SW $\frac{1}{4}$ NE $\frac{1}{4}$	38.81
	E	SE $\frac{1}{4}$ NE $\frac{1}{4}$	36.60
	F	NE $\frac{1}{4}$ SE $\frac{1}{4}$	37.95
	G	NW $\frac{1}{4}$ SE $\frac{1}{4}$	112.30
	H	NE $\frac{1}{4}$ SW $\frac{1}{4}$ & W $\frac{1}{2}$ SW $\frac{1}{4}$	37.97
	I	SE $\frac{1}{4}$ SW $\frac{1}{4}$	26.89
	J	SW $\frac{1}{4}$ SE $\frac{1}{4}$	36.92
	K	SE $\frac{1}{4}$ SE $\frac{1}{4}$	28.28
22	B	NW $\frac{1}{4}$ SW $\frac{1}{4}$	117.17
	C	E $\frac{1}{2}$ SW $\frac{1}{4}$ & SW $\frac{1}{4}$ SW $\frac{1}{4}$	116.95
23	A	N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ & NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$	106.73
	B	W $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ & NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$	129.13
	C	W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ & SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$	114.10
	D	E $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ & SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$	124.92
24	A	Lot 1, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ & NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$	133.31
	B	Lot 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ & NW $\frac{1}{4}$ NE $\frac{1}{4}$	115.62
	C	W $\frac{1}{2}$ NW $\frac{1}{4}$ & NW $\frac{1}{4}$ SW $\frac{1}{4}$	118.02
	D	E $\frac{1}{2}$ SW $\frac{1}{4}$ & SW $\frac{1}{4}$ SW $\frac{1}{4}$	126.80
	E	S $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ & NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$	

GILA AND SALT RIVER MERIDIAN, ARIZ.—CON.

PUBLIC LAND—continued

Section	Farm unit	Description	Total irrigable acres
Township 9 South, Range 23 West—Continued			
27	A	E $\frac{1}{2}$ NE $\frac{1}{4}$ & NW $\frac{1}{4}$ NE $\frac{1}{4}$	112.59
	B	E $\frac{1}{2}$ NW $\frac{1}{4}$ & SW $\frac{1}{4}$ NE $\frac{1}{4}$	115.91
	C	W $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 27, and SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 28	113.01
28	A	Lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$	106.78
	B	W $\frac{1}{2}$ NW $\frac{1}{4}$	75.59
	D	NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ & SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$	66.10

PUBLIC LAND ENTERED

Section	Farm unit	Description	Total irrigable acres
Township 9 South, Range 23 West			
12	D	Lot 1, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$	128.01
22	A	NW $\frac{1}{4}$	154.40

STATE LAND

Section	Farm unit	Description	Total irrigable acres
Township 9 South, Range 23 West			
16		NE $\frac{1}{4}$ NW $\frac{1}{4}$	23.03
		SE $\frac{1}{4}$ NW $\frac{1}{4}$	24.25
		NW $\frac{1}{4}$ SE $\frac{1}{4}$	18.57
		SW $\frac{1}{4}$ SE $\frac{1}{4}$	20.20
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	22.35

PRIVATE LAND

Section	Farm unit	Description	Total irrigable acres
Township 9 South, Range 23 West			
4		NE $\frac{1}{4}$ SW $\frac{1}{4}$	10.43
		NW $\frac{1}{4}$ SW $\frac{1}{4}$	7.75
		SW $\frac{1}{4}$ SW $\frac{1}{4}$	35.51
		SE $\frac{1}{4}$ SW $\frac{1}{4}$	34.53
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	22.75
		NW $\frac{1}{4}$ SE $\frac{1}{4}$	18.95
		SW $\frac{1}{4}$ SE $\frac{1}{4}$	34.46
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	33.76
5		NW $\frac{1}{4}$ SW $\frac{1}{4}$	16.98
		SW $\frac{1}{4}$ SW $\frac{1}{4}$	17.41
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	3.82
		NW $\frac{1}{4}$ SE $\frac{1}{4}$	3.82
		SW $\frac{1}{4}$ SE $\frac{1}{4}$	34.54
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	34.16
7		SW $\frac{1}{4}$ NE $\frac{1}{4}$	38.98
		NE $\frac{1}{4}$ SW $\frac{1}{4}$	39.96
		Lot 3	39.28
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	36.51
		NW $\frac{1}{4}$ SE $\frac{1}{4}$	38.93
17		NE $\frac{1}{4}$ SE $\frac{1}{4}$	7.49
		NW $\frac{1}{4}$ SE $\frac{1}{4}$	11.25
		SW $\frac{1}{4}$ SE $\frac{1}{4}$	12.75
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	0.70
20		NE $\frac{1}{4}$ NW $\frac{1}{4}$	34.24
		NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.24
		SW $\frac{1}{4}$ NW $\frac{1}{4}$	35.14
		SE $\frac{1}{4}$ NW $\frac{1}{4}$	39.91
		NW $\frac{1}{4}$ SW $\frac{1}{4}$	38.98
		SW $\frac{1}{4}$ SW $\frac{1}{4}$	38.08
30		NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.70
		Lot 1	31.58
		Lot 2	10.15
Township 8 South, Range 23 West			
34		SW $\frac{1}{4}$ SE $\frac{1}{4}$	36.74
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	35.39
35		SW $\frac{1}{4}$ SW $\frac{1}{4}$	28.40
		SE $\frac{1}{4}$ SW $\frac{1}{4}$	8.99
Township 9 South, Range 23 West			
2		Lot 1	8.68
		Lot 2	28.01
		SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.77
		SE $\frac{1}{4}$ NE $\frac{1}{4}$	39.30
		NE $\frac{1}{4}$ SW $\frac{1}{4}$	39.85
		NW $\frac{1}{4}$ SW $\frac{1}{4}$	39.62
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	39.37

GILA AND SALT RIVER MERIDIAN, ARIZ.—CON.

PRIVATE LAND—continued

Sec. tion	Description	Total irri- gable acres
Township 9 South, Range 23 West—Con.		
2	NW $\frac{1}{4}$ SE $\frac{1}{4}$	39.80
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	37.07
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	38.22
3	Lot 1	33.89
	Lot 2	38.79
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.49
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	34.49
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	39.41
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.37
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	37.02
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	37.88
4	SW $\frac{1}{4}$ SE $\frac{1}{4}$	30.55
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	36.28
9	NE $\frac{1}{4}$ NE $\frac{1}{4}$	12.25
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	19.30
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	35.95
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	36.00
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	29.96
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	38.16
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	35.38
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	36.51
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	27.38
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	29.45
10	NE $\frac{1}{4}$ NW $\frac{1}{4}$	20.48
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	24.99
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	14.79
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	20.19
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	29.71
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	32.69
12	NE $\frac{1}{4}$ NW $\frac{1}{4}$	35.52
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	32.39
13	NE $\frac{1}{4}$ NW $\frac{1}{4}$	39.18
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	38.30
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	38.41
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	39.36
15	SW $\frac{1}{4}$ SW $\frac{1}{4}$	33.04
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	31.54
16	NW $\frac{1}{4}$ NW $\frac{1}{4}$	32.78
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	15.68
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	33.78
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	0.80
22	NE $\frac{1}{4}$ NE $\frac{1}{4}$	38.12
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	39.06
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.20
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	38.27
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	38.41
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	39.35
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	38.26
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	38.51
23	NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.44
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.40
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	37.33
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	39.37
25	NE $\frac{1}{4}$ NE $\frac{1}{4}$	38.42
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	39.34
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	36.08
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	13.25
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	39.28
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	38.23
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	37.62
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	38.56
26	NE $\frac{1}{4}$ NE $\frac{1}{4}$	38.29
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	39.24
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	38.53
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	37.54
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.35
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.34
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	36.66
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	37.65
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	37.36
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	36.51
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	35.24
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	37.91
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	37.11
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	37.75
28	SW $\frac{1}{4}$ SE $\frac{1}{4}$	88.17
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	37.53
35	NE $\frac{1}{4}$ NW $\frac{1}{4}$	37.97
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.05
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	36.94
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	37.85
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	39.43
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	35.52
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	35.08
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	39.20

ownership for which application for delivery of water may be made shall be 160 acres of irrigable land for each landowner.

3. *Preference rights of honorably discharged veterans*—(a) *Nature of preference.* Pursuant to the provisions of the act of September 27, 1944 (58 Stat. 747), as amended May 31, 1947 (Public Law 82, 80th Cong. 1st Sess.), and pursuant to the provisions of section 9 of the act of December 21, 1928 (45 Stat. 1057, 1063), as amended March 6, 1946 (60 Stat. 36), for a period of three months from the opening to entry of the public lands described in paragraph 1, or until March 29, 1948, said lands will be opened to entry to persons who at the time of making application fall within one of the following classes:

(1) Persons, including persons under 21 years of age, who have served in the Army, Navy, Marine Corps, or Coast Guard of the United States for a period of at least 90 days at any time on or after September 16, 1940, and prior to the termination of the present war, and are honorably discharged therefrom.

(2) Persons, including persons under 21 years of age, who have served in said Army, Navy, Marine Corps or Coast Guard during such period, regardless of length of service, and are discharged on account of wounds received or disability incurred during such period in the line of duty, or, subsequent to a regular discharge, are furnished hospitalization or awarded compensation by the government on account of such wounds or disability.

(3) The spouse of any person in either of the above classes (1) and (2), provided such spouse has the consent of such person to exercise his or her preference right under said act.

(4) The surviving spouse of any person in either of the above classes (1) and (2), or in the case of the death or marriage of such spouse, the minor child or children of such person by a guardian duly appointed and officially accredited at the Department of the Interior.

(5) The surviving spouse of any person whose death has resulted from wounds received or disability incurred in line of duty while serving in said Army, Navy, Marine Corps or Coast Guard during the above-mentioned period, or in the case of the death or marriage of such spouse, the minor child or children of such person by a guardian duly appointed and officially accredited at the Department of the Interior.

(6) Persons who have served in said Army, Navy, Marine Corps or Coast Guard during the War with Germany which commenced April 6, 1917, and terminated March 3, 1921, or during the War with Spain or the Suppression of the Insurrection in the Philippines, which war and insurrection commenced April 21, 1898, and terminated July 15, 1903, and were honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve.

Provided, however, That persons claiming such preference must be qualified to make entry under the homestead laws and also possess the qualifications as to industry, experience, character, capital,

and physical fitness required of all entrymen and entrywomen under this notice.

(b) *Definition of honorable discharge.* An honorable discharge within the intent of this notice shall mean:

(1) Separation of the veteran from the service by means of an honorable discharge or a discharge under honorable conditions.

(2) Transfer of the veteran with honorable service from such service to a reserve or retired status prior to the termination of the war, or

(3) Ending of the period of such veteran's war service by reason of the termination of the war, even though the veteran remains in the military or naval services of the United States.

(c) *Submission of proof of veterans' status.* All applicants for farm units who claim veterans' preference must attach to their applications a photostatic, certified, or authenticated copy of an official document of the respective branch of the service involved which clearly indicates an honorable discharge or separation or transfer to a reserve or retired status or which constitutes evidence of other facts on which the claim for preference is based. Where the preference is claimed by the surviving spouse, or on behalf of the minor child or children, of a deceased veteran, proof of such relationship and of his death must be attached to the application. Where the preference is claimed by the spouse of a living veteran, proof of such relationship, the written consent of such veteran, and proof of his military service as required above must be attached to the application.

4. *Qualifications required by the Reclamation Law.* Pursuant to the provisions of subsection C, section 4, of the act of December 5, 1924 (43 Stat. 702, 43 U. S. C. 433), the following are established as minimum qualifications which, in the opinion of the local examining board, are necessary to insure the success of entrymen or entrywomen on reclamation farm units included under this notice. Applicants must meet these qualifications, as determined by the examining board, in order to be considered for entry. Failure to meet them in any single respect will be sufficient cause for rejection of an application. No credit will be given for qualifications in excess of the minimum required. The minimum qualifications are as follows:

(a) *Character and industry.* Each entryman or entrywoman must be possessed of honesty, temperate habits, thrift, industry, seriousness of purpose, record of good moral conduct, and a bona fide intent to engage in farming as an occupation. Persons named as references in paragraph 17 of the farm application blank should not include persons who furnish statements regarding farm experience and should be responsible individuals, not relatives, who are personally acquainted with the applicant and are willing and able to disclose full information relative to the character and industry of the applicant. These references are required in addition to the statements regarding farm experience to be provided as outlined under 4 (c) below.

(b) *Health.* Each entryman or entrywoman must be in such physical condi-

tion as will enable him or her to engage in normal farm labor. Any person who is physically handicapped or afflicted with any condition which makes such ability questionable must attach to his or her application the detailed statement of an examining physician which defines the limitation upon such ability and its causes.

(c) *Farm experience.* Each entryman or entrywoman must have had at least two years' full-time farm experience acquired after the age of 15 years. Two years of study in agricultural courses in an accredited agricultural college, or two years of responsible technical work in agriculture which, in the opinion of the examining board, may contribute toward knowledge of the successful operation of a farm, may be substituted for one year of farm experience. No more than one year's experience may be credited from such sources. A farm youth over the age of 15 who actually resided and worked on a farm while attending school may credit such time as actual farm experience. All farm experience must have been obtained since December 1932. No advantage will accrue from farming experience on irrigated land. Applicants must furnish three written statements, each signed by a vocational agriculture teacher, county agent, County Farmers Home Administration supervisor, Production and Marketing Administration chairman, an officer of any local farm organization or some other reliable person who has personal knowledge of the applicant's farm experience or has verified it to his satisfaction. Women applicants should describe fully the farm activities in which they have participated and the relation of agricultural courses they have taken to farm operation and management.

(d) *Capital.* Each entryman or entrywoman must possess at least \$1,500 in cash, and an additional \$1,500 in operating capital or in equivalent assets, such as livestock, farm machinery, and equipment which are unencumbered and which in the opinion of the board will be needed for farming operations in this area. Adequate credit, which can be used to meet the above additional operating capital requirements, will be considered when substantiated by a certified statement from the credit source, outlining the amount which will be loaned to the applicant and the terms of the loan. In any event, credit will be considered only if the terms of repayment will not, in the opinion of the board, interfere with the development of a farm unit. United States Savings Bonds, life insurance policies, and similar assets should be listed at present cash value only.

(e) *Restriction regarding lands presently owned on any Federal reclamation projects.* In addition, in order to qualify for entry on project lands, applicants must not hold or own, within any Federal reclamation project, irrigable land for which construction charges payable to the United States have not been fully paid. Proofs of conformity with this requirement need not be furnished, but a check of project lands will be made to determine eligibility of applicants before awards of farm units are made.

5. *Principal qualifications required by homestead laws.* The homestead laws require that an entryman or entrywoman:

(a) Must be a citizen of the United States or have declared an intention to become a citizen of the United States.

(b) Must not have exhausted the right to make homestead entry on public land.

(c) Must not own more than 160 acres of land in the United States.

(d) Entrywomen who are married must be heads of families; this requirement of the homestead law is not affected by the act of September 27, 1944 (58 Stat. 747), as amended. Entrymen and unmarried entrywomen must be 21 years of age or the head of a family, except that such minimum age requirement is not applicable to entrymen or unmarried entrywomen who have served in the Army, Navy, Marine Corps or Coast Guard of the United States for a period of at least 90 days at any time on or after September 16, 1940, and prior to the termination of the present war and are honorably discharged. Any applicant who is required to be the head of family must submit proof of such status with his or her application. Complete information concerning qualifications for homesteading may be obtained from the District Land Office, Federal Building, Phoenix, Arizona, or Bureau of Land Management, Washington 25, D. C.

6. *When, where, and how to apply for a farm unit—(a) Application blanks.* Any person desiring to acquire one of the public land units described in this notice must fill out the attached farm application blank. Additional application blanks may be obtained from the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona; the Regional Director, Region 3, Bureau of Reclamation, Boulder City, Nevada; or the Commissioner, Bureau of Reclamation, Department of the Interior, Washington 25, D. C.

(b) *Filing of application and proofs.* An application for a public land farm unit listed in this notice must be filed with the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona, in person or by mail. No advantage will accrue to an applicant who presents his or her application in person. Such an application must be accompanied by:

(1) Proof of veteran's status, if veterans' preference is claimed; see above, paragraph 3 (c).

(2) Statement of examining physician, in case of disability; see above, paragraph 4 (b).

(3) Proof of farm experience; see above, paragraph 4 (c).

(4) Certified statement from credit source, in case credit is listed as partial fulfillment of capital requirement; see above, paragraph 4 (d).

(5) Proof of status as head of the family, if a married woman or otherwise required to be head of a family; see above, paragraph 5 (d).

c. *Priority of applications.* All applications filed for the public land farm units listed in this notice will be classified for priority purposes as follows and considered in the following order:

(1) *First Priority Group.* All applications filed prior to 2:00 p. m., March 29,

1948, which are accompanied by proof sufficient in the opinion of the board to establish eligibility for veterans' preferences. All such applications will be treated as simultaneously filed.

(2) *Second Priority Group.* All applications filed prior to 2:00 p. m., March 29, 1948, which are not accompanied by proof sufficient in the opinion of the board to establish eligibility for veterans' preference. All such applications will be treated as simultaneously filed.

(3) *Final Priority Group.* All applications filed after 2:00 p. m., March 29, 1948, whether or not accompanied by proof relative to veterans' preferences. Such applications will be considered in the order in which they are filed, if any farm units become available for assignment to applicants within this group.

7. *Selection of qualified applicants—(a) Examining board.* An examining board of five members, including the Superintendent, Gila Project, who will act as secretary of the board, has been approved by the Commissioner of Reclamation to consider the qualifications and fitness of each applicant to undertake the operation of a farm on the Gila Project. Careful investigations will be made to verify the statements and representations made by applicants in order to determine their qualifications as prescribed in this notice.

(b) *Basis of examination.* The examining board will determine the eligibility for the award of a reclamation farm unit under subsection 4C of the act of December 5, 1924. As stated above in paragraph 4, applicants will be judged on the basis of character, industry, farming experience, and capital. No applicant will be considered eligible who does not qualify in all respects, or who does not, in the opinion of the board, possess the health and vigor to engage in farm work. Any falsification or fraudulent representation shall constitute ground for the disqualification of the applicant, the rejection of his application, the cancellation of his award, and/or the cancellation of his entry.

(c) *Procedure—(1) Preliminary examination.* If an applicant fails to make a prima facie case, that is, if an examination of his application discloses that he is unqualified in respect to the requirements prescribed herein, the application shall be rejected and the applicant notified by the board of examiners of such rejection and of the reasons therefor, and of his right to appeal in writing to the Regional Director, Region 3, Bureau of Reclamation, Boulder City, Nevada. Such written appeals must be filed in the office of the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona, within 15 days from the receipt of notification. They will then be forwarded promptly to the Regional Director. If an appeal is decided by the Regional Director in favor of the applicant, the application will be referred to the board of examiners for inclusion in the drawing. All decisions on appeals will be based exclusively on information obtained prior to rejection of the application.

(2) *Selection of applicants.* After the expiration of the appeal periods fixed by the above-mentioned notices, and in

the absence of any pending appeals, the examining board shall conduct a public drawing from the names of the remaining applicants in the First Priority Group, as defined in paragraph 6 (c). Qualified applicants need not be present at the drawing in order to participate therein. A total of 108 names (twice the number of public land farm units to be awarded) shall be drawn and numbered consecutively. The applicants whose names are so drawn shall be closely investigated by the board to determine the authenticity and reliability of the information and proofs offered by them. This investigation may include a personal appearance before the board, if the board determines that this is necessary; should any applicant fail to comply with the board's request for a personal appearance, such failure shall constitute ground for rejection of his application. Any applicant, whose application is rejected by the board as a result of such investigation, shall be given notice of such rejection, setting forth the reasons therefor and advising the applicant of his right to appeal in writing to the Regional Director. The provisions of paragraph 7 (c) (1) relative to appeals shall be applicable to any such appeal, except that where any such appeal is decided by the Regional Director in favor of the applicant such applicant shall retain the number assigned to him at the time of the drawing.

After the expiration of all appeal periods fixed by notices given as above-provided, and in the absence of any pending appeals, those applicants whose applications remain unrejected and who hold the 54 lowest numbers assigned at the drawing, exclusive of those numbers assigned to rejected applications, shall be selected by the examining board as the successful applicants. The balance of the 108 applicants who have been closely investigated and whose applications remain unrejected shall be selected by the board as alternates. The board shall thereupon notify each successful applicant and each alternate of his selection and of his respective standing. The board shall thereupon notify all other remaining applicants that farm units will not become available for award to them, except pursuant to subparagraph 7 (c) (3) (b) below.

(3) *Awarding of farm units.* (a) Upon the completion of any action which may become necessary by reason of any notices given, the examining board shall award public land farm units to the successful applicants who indicate their preference for specific farm units in their respective farm application blanks in the order in which their names were drawn at the public drawing. To the extent that farm units conforming to such preferences remain available, awards shall be made in accordance with such preferences. Otherwise, the board shall make such awards of farm units as it deems appropriate on the basis of its evaluation of the qualifications of the respective applicants. In this connection, consideration will be given by the board to the applicant's preference, if expressed, for units suitable for general crops or for units suitable for specialized crops. The applicant may indicate such

preference in the blank space following item 7 under the section "priority of choice" in the farm application blank.

Each applicant to whom a farm unit has been awarded will be notified of that fact by the board. Each such applicant shall have no right of entry for any other farm unit. If any such applicants fail to pay the irrigation charge or to make application for homestead entry in conformity with the provisions of paragraph 9 below, the farm units awarded to them shall be awarded to alternates in the same manner and subject to the same conditions and requirements as the original awards.

(b) The foregoing procedure shall continue until all farm units are finally disposed of to unrejected applicants in the First Priority Group whose names have been drawn and whose applications have been closely investigated as provided herein. If units still remain to be awarded after all applications in the First Priority Group have been processed, the foregoing procedure shall be applied in the processing of applications in the Second Priority Group. If units still remain to be awarded after all applications in the Second Priority Group have been processed, the foregoing procedure shall be applied in the processing of applications in the Final Priority Group, except that the board shall consider such applications in the order in which they are filed in lieu of conducting a drawing with reference thereto.

(4) *Delivery of notices.* All notices given to applicants pursuant to the provisions of paragraph 7 (c) and subparagraphs thereunder shall be in writing and shall be delivered to the respective applicants personally or sent to them by registered mail with return receipt requested.

8. *Warning against unlawful settlement.* No person shall be permitted to gain or exercise any right under any settlement or occupation of any of the public lands covered by this notice except under the terms and conditions prescribed by this notice.

9. *Filing of homestead applications.* With each notification to a successful applicant, the applicant shall be advised that an irrigation charge of \$6.00 for each irrigable acre predeveloped in the farm unit assigned to him on the Yuma Mesa Division of the Gila Project, to be applied to the charges set forth in paragraph 10 (a) below, must be remitted, together with an executed and acknowledged contract and mortgage securing the payment of the predevelopment charges mentioned in paragraph 10, c. below which are applicable to said farm unit, accompanied by the fees necessary for the recording of said contract and mortgage, to the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona, within 15 days from receipt of the said notice in order to qualify the applicant to file a homestead application with the District Land Office, Bureau of Land Management, Federal Building, Phoenix, Arizona. Upon receipt by the Project Superintendent of such payment, contract and mortgage and recording fees from the applicant before the expiration of the said 15-day period, the

secretary of the examining board shall furnish such applicant by registered mail, unless delivery is made in person, a certificate stating that the applicant's qualifications to enter public lands, as required by subsection 4C of the act of December 5, 1924, have been passed upon and approved by the board. Such certificate must be attached by the applicant to his or her homestead application when the application is filed with the District Land Office. Such homestead application must be made within 30 days from the date of receipt of said certificate, and must be executed in person in the District Land Office, Phoenix, Arizona, or in the county or land district in which the lands are located, or before a qualified officer who resides nearest or most accessibly to the land, although he may reside outside the county or land districts in which the lands are situated. Failure to pay the irrigation charge, execute and deliver the contract and mortgage and recording fees, and to make application for homestead entry within the periods specified herein, shall disqualify the applicant and result in the cancellation of his award.

10. *Construction and other charges.* The Reclamation Law provides that, except during a "development period" fixed by the Secretary of the Interior, water may not be delivered for the irrigation of lands until an organization, satisfactory in form and powers to the Secretary, has entered into a contract with the United States providing for the repayment of the project construction and other costs allocated to such irrigated lands, exclusive of the predevelopment charges mentioned in subparagraph 10 (c) below. Pursuant to sections 2 (j) and 7 (b) of the Reclamation Project Act of 1939, the lands described in paragraph 1 of this public notice are hereby designated a development unit. The development period for the lands so designated is hereby fixed at a period of ten years from and including the first year in which water is delivered. The inclusion of all of the lands described in paragraph 1 within an organization of the type described and the execution by such organization of a contract covering the repayment of the construction and other costs allocated to such lands, exclusive of said predevelopment charges, is a prerequisite to the delivery of water to such lands after the expiration of the development period. The term "construction charges" as herein used includes all net expenditures attributable to predevelopment, exclusive of those covered by the predevelopment charges mentioned in subparagraph 10 (c) below.

(a) *Irrigation charges.* The following irrigation charges set forth in Public Notice No. 3, entitled "Public Notice of Annual Water Rental Charges," shall be applicable during the calendar year 1948 and thereafter until further notice:

(1) For those lands described in paragraph 1, irrigated before July 1 of any year, the minimum charge shall be \$6.00 per acre for each acre of land for which water service is requested, payment of which will entitle the applicant to 8 acre-feet of water per acre, provided he is not in default in compliance with any requirement imposed by or pursuant to

this public notice. Additional water will be furnished at the rate of \$0.85 per acre-foot. In the event that any entryman who pays the irrigation charge of \$6.00 required by paragraph 9 does not use 8 acre-feet of water per acre before January 1, 1949, because of the date when he receives the award of his farm unit, credit for the unused portion of such charge will be applied against the minimum charge for the calendar year 1949, provided his entry then remains intact and in good standing.

(2) For those lands described in paragraph 1, not irrigated before July 1 of any year but receiving water after that date, there will be a charge of \$0.75 per acre-foot for the first 4 acre-feet of water ordered during that year and a charge of \$0.85 per acre-foot for all additional water ordered during that year.

(3) The foregoing charges are subject to all provisions of the Federal Reclamation Law relative to collections and penalties for delinquencies. The charges will be paid at the office of the Superintendent, Gila Project, Bureau of Reclamation, Yuma, Arizona.

(b) *Construction charges.* Because construction is not completed, and because the ultimate acreage that is to be irrigated is not determinable at this time, the per-acre construction charges will be announced formally in a subsequent public notice. Repayment of construction charges as later determined and announced by the Secretary of the Interior will be made over a period of 60 years following a development period of 10 years for both public and private lands. A repayment contract will be negotiated with the organization representing the water users prior to the termination of the 10-year development period.

(c) *Predevelopment charges.* (1) The irrigable lands opened for entry under this public notice have been predeveloped, except as to the following farm units: Farm Unit B in Section 9, Farm Unit H in Section 21, and Farm Unit B in Section 28, all in Township 9 South, Range 23 West, which contain undeveloped irrigable areas of 8.00 acres, 5.00 acres, and 12.57 acres, respectively, for which no predevelopment charges will be made; and Farm Unit B, Section 6, Township 9 South, Range 22 West, which contains 27.50 acres not to be fully developed until about October 1948, according to present plans. Predevelopment of this 27.50-acre area will be completed and charges established therefor. The contract and mortgage covering this farm unit, executed in conformity with paragraph 9 above, shall cover all irrigable land in the unit, but shall provide that no predevelopment charges shall accrue with respect to the presently undeveloped 27.50 acres until such acreage has been fully developed. Predevelopment consists of leveling the land, installing farm ditches, structures, and turn-outs, applying fertilizer, and establishing a crop of alfalfa for soil improvement purposes. Approximately 38 percent of the farm ditches will be concrete-lined. This work, now under way, will be completed early in the 1948 calendar year. Ditch lining included in the 38 percent to be lined but which is not completed by the time of entry will be scheduled so as to interfere as little

as possible with farming operations. The predevelopment charges have been fixed at a uniform rate of \$150.00 for each acre predeveloped; no adjustment in such charges has been or will be made on the ground that some predeveloped lands are served by lined ditches whereas other predeveloped lands are served by unlined ditches. Such charges will be repaid over a period of about 30 years at the following rates: \$4.00 per predeveloped acre semi-annually during the first 10 years or until repayment of construction charges is begun and \$1.75 per predeveloped acre semi-annually until the balance has been repaid (except that as to the two farm units mentioned in subparagraph 10 (c), (2) below, the rates applicable to the irrigable acreage leased for potato production during the first 10 years or until repayment of construction charges is begun shall be \$2.75 per predeveloped acre semi-annually).

(2) A total of 76.65 acres in Farm Unit A, Section 28, and 36.47 acres in Farm Unit C, Section 27, Township 9 South, Range 23 West, as listed in paragraph 1 of this notice have been leased for potato production. This lease will terminate on January 31, 1948. The remaining portions of the farm units involved are in alfalfa. Predevelopment charges for these two units are to be calculated at the same rate as for other farm units except that a reduction of \$25.00 per acre will be made for the number of irrigable acres on which the stand of alfalfa has been plowed under for potato production.

(3) Predevelopment charges will be secured by individual contracts and mortgages, executed in conformity with paragraph 9 above, prior to actual entry on the land. In the event that any person hereafter becomes entitled, by reason of assignment, death or otherwise, to any of the rights of any entryman herein, such person shall be required to execute, acknowledge and deliver an individual contract and mortgage covering predevelopment charges for the farm unit involved to the Superintendent, Gila Project. Failure of any entryman to pay any installment of such charges when due shall render his entry subject to cancellation upon the request of the Commissioner of Reclamation or his duly authorized representative.

(4) Alfalfa crops on the farm units will be maintained in growing condition without additional charge to the entryman until the application for temporary water service has been filed and the contract and mortgage covering predevelopment charges have been executed. After that time farming operations will be continued for a period not exceeding six months by government forces and/or through the means of an interim lease contract until farm operation is assumed by the entryman, but during this time expenses, if any, incurred in excess of returns from the sale of crops or income from other sources will constitute a charge to be added to the sum obligated under the contract and mortgage covering predevelopment charges. Failure of the entryman to pay such additional charge when due or to assume the operation of his farm unit on or before the expiration of said period of six months

shall render his entry subject to cancellation upon the request of the Commissioner of Reclamation or his duly authorized representative.

(d) *Charges applicable to public entered, state and private lands.* Irrigation and construction charges applicable to public entered, state and private lands will be the same as for public lands as shown under 10 (a) and 10 (b), but public entered, state and private lands will not be subject to the predevelopment charges mentioned in subparagraph 10 (c) above.

11. *Reservation of rights-of-way for public roads.* Rights-of-way are reserved for public roads on section lines in the farm units shown on said plats, said rights-of-way being 33 feet in width on each side of said section lines.

12. *Reservations of rights-of-way for public-owned utilities.* Rights-of-way are reserved for government-owned telephone, electric transmission, water and sewer lines, and water treating and pumping plants, as now constructed, and the Secretary of the Interior reserves the right to locate such other government-owned facilities over and across the farm units above described as hereafter, in his opinion, may be necessary for the proper construction, operation, and maintenance of the said division.

13. *Effect of relinquishment.* In the event that any entry of public land made hereunder shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, the land so relinquished shall not be subject to entry for a period of 60 days after the filing and notation of the relinquishment in the District Land Office. Applications conforming to the requirements of this public notice may be filed for a period of 15 days after the expiration of said 60-day period. Such applications will be considered and processed and awards made pursuant to the provisions of this public notice.

14. *Waiver of mineral rights.* All homestead entries for the above-described farm units will be subject to the laws of the United States governing mineral land, and all homestead applicants under this notice must waive the right to the mineral content of the land, if required to do so by the Bureau of Land Management; otherwise the homestead applications will be rejected or the homestead entry or entries canceled.

WILLIAM E. WARNE,
Assistant Secretary of the Interior.

[F. R. Doc. 47-11353; Filed, Dec. 26, 1947;
8:48 a. m.]

[Public Notice 26, Supp. 1]

RIVERTON IRRIGATION PROJECT, WYOMING

AMENDMENT TO PUBLIC NOTICE NO. 26, DATED
JUNE 26, 1947, ANNOUNCING AVAILABILITY
OF WATER FOR PUBLIC AND PRIVATE LANDS
AND OPENING OF PUBLIC LANDS TO ENTRY

1. The following public land farm units listed and described in paragraph 1 of Public Notice No. 26 are hereby withdrawn from public entry:

Section	Farm unit	Description	Total irrigable acres
1	A	Township 2 North, Range 5 East Lots 2, 3, 4 and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1.	82
1	B	SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1; S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2.	162
5	A	Township 2 North, Range 6 East Lots 2, 3 and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5.	80
6	B	SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5; SE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6.	102
6	C	Lot 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5; Lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6.	113
7	A	E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 8.	100
7	B	NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 7; NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8.	95
19	A	E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19; W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20.	91
19	B	SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19; W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20.	91
30	C	Lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30; Lot 4 of Section 19.	107
32	A	S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29; W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 32; E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31.	97
32	B	NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31; N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 32.	108
32	C	SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31; S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 32.	101

2. The number of applicants selected as mentioned in paragraph 4 (f) (2) and 4 (f) (4) of Public Notice No. 26 shall be reduced from 136 to 110, and the number of applicants called for personal interview, as mentioned in paragraph 4 (f) (4), shall be reduced from 68 to 55.

WILLIAM E. WARNE,
Assistant Secretary of the Interior.

DECEMBER 4, 1947.

[F. R. Doc. 47-11352; Filed, Dec. 26, 1947;
8:48 a. m.]

[No. 4]

TUCUMCARI IRRIGATION PROJECT, NEW MEXICO

ANNOUNCEMENT OF ANNUAL WATER RENTAL CHARGES

NOVEMBER 21, 1947.

1. I have determined that it is factually impossible, in view of the provision for construction of distribution works by the United States under the contract with the Arch Hurley Conservancy District dated December 27, 1938, to make water available for irrigation use during the season of 1948 as contemplated in article 8 of the contract.

2. *Water rental.* Pursuant to article 10 of the contract of December 27, 1938, irrigation water will be furnished, when available, upon a rental basis during the irrigation season of 1948 where the progress of construction will permit, to the irrigable lands in the Arch Hurley Conservancy District described below:

UNIT NO. 1. WATER TO BE FURNISHED BEGINNING ABOUT APRIL 1, 1948

Generally described as lying north of the Chicago, Rock Island and Pacific Railroad and west of the Southern Pacific Railroad (Dawson Branch), comprising such lands as are irrigable within the tracts of land described as follows:

New Mexico Principal Meridian

- T. 11 N., R. 29 E.,
 Sec. 13, NW $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 11 N., R. 30 E.,
 Sec. 1, W $\frac{1}{2}$, west of Dawson Railroad;
 Sec. 2, 3, 4, 5, 7, 8, 9, 10, and 11;
 Sec. 12, W $\frac{1}{2}$, west of Dawson Railroad;
 Sec. 14, NW $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 15, 16, 17, 18, 19, 20, and 21;
 Sec. 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 29, N $\frac{1}{2}$;
 Sec. 30, NW $\frac{1}{4}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 T. 12 N., R. 30 E.,
 Sec. 26, 27, and 28;
 Sec. 29, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 32, E $\frac{1}{2}$ E $\frac{1}{2}$; W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 33, 34;
 Sec. 35, NW $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$.

UNIT NO. 2. WATER TO BE FURNISHED BEGINNING ABOUT APRIL 1, 1948

Generally described as lying east of the Southern Pacific Railroad (Dawson Branch), east of the city limits of Tucumcari, New Mexico, and north of Hittson Creek, comprising such lands as are irrigable within the tracts of land described as follows:

- T. 11 N., R. 30 E.,
 Sec. 1, E $\frac{1}{2}$, east of Dawson Railroad;
 Sec. 12, east of Dawson Railroad;
 Sec. 13, E $\frac{1}{2}$;
 Secs. 24 and 25.
 T. 11 N., R. 31 E.,
 Sec. 6, W $\frac{1}{2}$;
 Secs. 7 and 8;
 Sec. 16, S $\frac{1}{2}$, and part of NW $\frac{1}{4}$ south of C. R. I. & P. Railroad;
 Secs. 17, 18, 19, 20, and 21;
 Sec. 22, W $\frac{1}{2}$;
 Sec. 27, Part lying north of Hittson Creek in NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 28, Part lying north of Hittson Creek;
 Sec. 30, N $\frac{1}{2}$.

UNIT NO. 3. WATER TO BE FURNISHED BEGINNING ABOUT APRIL 1, 1948

Generally described as lying north of Tucumcari Creek and south of Hittson Creek, comprising such lands as are irrigable within the tracts of land described as follows:

- T. 10 N., R. 31 E.,
 Sec. 1, Part lying north of Tucumcari Creek in N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 2, Part lying north of Tucumcari Creek;
 Sec. 3, Part lying north of Tucumcari Creek;
 Sec. 4, Part lying north of Tucumcari Creek.
 T. 11 N., R. 31 E.,
 Sec. 25, Part lying south of Hittson Creek;
 Sec. 26, Part lying south of Hittson Creek;
 Sec. 27, Part lying south of Hittson Creek in NW $\frac{1}{4}$;
 Sec. 28, Part lying south of Hittson Creek;
 Sec. 29;
 Sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 33, 34, and 35;
 Sec. 36, Part lying north of Tucumcari Creek.
 T. 11 N., R. 32 E.,
 Sec. 31, Part lying between Hittson Creek and Plaza Larga Creek in NW $\frac{1}{4}$.

UNIT NO. 4. WATER TO BE FURNISHED BEGINNING ABOUT APRIL 1, 1948

Generally described as lying north of Hittson Creek and north of Plaza Larga, comprising such lands as are irrigable within the tracts of land described as follows:

- T. 11 N., R. 31 E.,
 Sec. 10, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 14, SW $\frac{1}{4}$;
 Sec. 15;
 Sec. 16, Part north of C. R. I. & P. Railroad;
 Sec. 22, E $\frac{1}{2}$;
 Sec. 23 and 24;
 Sec. 25, Part lying north of Hittson Creek;
 Sec. 26, Part lying north of Hittson Creek;
 Sec. 27, Part lying north of Hittson Creek in NE $\frac{1}{4}$.
 T. 11 N., R. 32 E.,
 Sec. 19;
 Sec. 20, SW $\frac{1}{4}$;
 Sec. 28, Part lying between Plaza Larga Creek and C. R. I. & P. Railroad;
 Sec. 29, Part lying north of Plaza Larga Creek;
 Sec. 30, Part lying north and east of Hittson Creek;
 Sec. 31, Part lying north of Plaza Larga Creek in NW $\frac{1}{4}$.

UNIT NO. 5. WATER TO BE FURNISHED BEGINNING ABOUT APRIL 1, 1948

Generally described as lying north of Plaza Larga Creek and bounded on the east and west by the project boundary lines and on the north by the proposed Hudson Extension, comprising such lands as are irrigable within the tracts of land described as follows:

- T. 12 N., R. 33 E.,
 Sec. 19, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 30.
 T. 12 N., R. 32 E.,
 Sec. 24, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 25;
 Sec. 26, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 27, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 32, 33, 34, 35, and 36.
 T. 11 N., R. 33 E.,
 Sec. 18, S $\frac{1}{2}$;
 Sec. 19, Part of W $\frac{1}{2}$ north of Plaza Larga Creek;
 T. 11 N., R. 32 E.,
 Sec. 1, SW $\frac{1}{4}$;
 Sec. 2, 3, 6, 7, 8, 9, 10, 11, and 12;
 Sec. 13, 14, 15, 16, 17, and 18;
 Sec. 20, E $\frac{1}{2}$; NW $\frac{1}{4}$;
 Sec. 21;
 Sec. 22, Part lying north of Plaza Larga Creek in NE $\frac{1}{4}$;
 Sec. 23, Part lying north of Plaza Larga Creek;
 Sec. 24, Part lying north of Plaza Larga Creek in N $\frac{1}{2}$;
 Sec. 28, Part lying north of Plaza Larga Creek in N $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 11 N., R. 31 E.,
 Sec. 1, E $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 11, S $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 12, S $\frac{1}{2}$; NE $\frac{1}{4}$;
 Sec. 14, E $\frac{1}{2}$, NW $\frac{1}{4}$.

3. *Charges and terms of payment—*(a) *Unit No. 1.* The minimum water rental charge for irrigable land within the boundaries of Unit 1 as above described shall be \$2.00 per irrigable acre for each irrigable acre of land for which water service is requested, payment of which will entitle the water user to one acre-foot of water per irrigable acre. Additional water will be furnished during the irrigation season at the following rates:

	Per acre-foot
Second acre-foot per acre.....	\$1.50
Third and additional acre-feet per acre	2.00

(b) *Units Nos. 2, 3, 4, and 5.* The minimum water rental charge for irriga-

ble land within the boundaries of Units 2, 3, 4, and 5 as above described shall be \$1.00 per irrigable acre for each irrigable acre of land for which water service is requested, payment of which will entitle the water user to one acre-foot of water per irrigable acre. Additional water will be furnished during the irrigation season at the following rates:

	Per acre-foot
Second acre-foot per acre.....	\$1.00
Third and additional acre-feet per acre	1.50

4. Water will be delivered and measured by Government forces at the nearest available measuring device to the individual farm.

5. The District will request water delivery for, and certify to the United States as entitled to receive water, only such lands as are owned or are held under contract of purchase by persons duly qualified to receive water under the terms of the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts of Congress supplementary thereto or amendatory thereof, and who have duly complied with the requirements of the contract of December 27, 1938, between the United States and the District, including:

(a) The execution and delivery of the recordable contract as provided for in article 30 (b) of said contract;

(b) The execution and delivery of the valid recordable contract, in the case of ownership of excess land, as provided for in articles 30 (a) and 32 of said contracts.

6. Individual applications for water on forms approved by the United States and the payments required by this announcement will be received at the office of the Secretary of the Arch Hurley Conservancy District, Tucumcari, New Mexico. Requests by the District for water for such lands as are entitled to receive water and payments by the District to the United States will be received at the office of the Bureau of Reclamation, Tucumcari, New Mexico.

7. This announcement shall not be construed as constituting the designation of irrigable lands provided for by article 30 of the contract of December 27, 1938, between the United States and the Arch Hurley Conservancy District.

H. E. ROBBINS,
Acting Regional Director.

[F. R. Doc. 47-11351; Filed, Dec. 26, 1947; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

HANDICAPPED CLIENTS EMPLOYMENT CERTIFICATES

ISSUANCE TO SHELTERED WORKSHOPS

Notice of issuance of special certificates for the employment of handicapped clients by sheltered workshops under the Fair Labor Standards Act of 1938, as amended, and the Walsh-Healey Public Contracts Act, as amended.

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938 and section

1 (b) of the Walsh-Healey Public Contracts Act have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938 (sec. 14, 52 Stat. 1068; 29 U. S. C. 214) and Part 525 of the regulations issued thereunder (29 CFR, Cum. Supp., Part 525, amended 11 F. R. 9556), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR, Cum. Supp., 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rate, and the effective and expiration dates of the certificates are as follows:

Goodwill Industries of Dayton, Inc., 201 West Fifth Street, Dayton 2, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 15 cents per hour, whichever is higher; certificate is effective December 8, 1947, and expires June 7, 1948.

Bethel Goodwill Industries of Ashtabula, Inc., 621 Morton Drive, Ashtabula, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 30 cents per hour, whichever is higher; certificate is effective December 15, 1947, and expires June 14, 1948.

Goodwill Union Mission and Industries, Inc., 713 East Tuscarawas Street, Canton, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 30 cents per hour, whichever is higher; certificate is effective December 14, 1947, and expires March 15, 1948.

Goodwill Industries of Cleveland, Inc., 2416 East Ninth Street, Cleveland 15, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 20 cents per hour, whichever is higher; certificate is effective December 15, 1947, and expires June 14, 1948.

Goodwill Industries of Detroit, 356 East Congress Street, Detroit, Michigan; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 25 cents per hour, whichever is higher; certificate is effective December 15, 1947, and expires June 14, 1948.

The Cleveland Society for the Blind, 2275 East 55th Street, Cleveland 3, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 20 cents per hour, whichever is higher; certificate is effective December 15, 1947, and expires June 14, 1948.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other educational or rehabilitative activity of an educational or therapeutic nature."

The certificates may be cancelled in the manner provided by the regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 15th day of December 1947.

RAYMOND G. GARCEAU,
Director,
Field Operations Branch.

[F. R. Doc. 47-11380; Filed, Dec. 26, 1947;
8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6111]

COMMUNITY PUBLIC SERVICE CO.

NOTICE OF APPLICATION

DECEMBER 23, 1947.

Notice is hereby given that on December 22, 1947, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Community Public Service Company, a corporation organized under the laws of the State of Delaware and doing business in the States of Kentucky, Louisiana, New Mexico and Texas, with its principal business office at Fort Worth, Texas, seeking an order authorizing the issuance and sale of \$2,000,000 principal amount of 3½% Sinking Fund Debentures, to be dated as of January 1, 1948, and to mature as of January 1, 1968. The Debentures are to be issued under a Trust Indenture to the First National Bank of Fort Worth, Texas, as Trustee, to be dated as of January 1, 1948. The Debentures will be sold privately to six insurance companies. A finder's fee of \$2,500 will be paid to Central Republic Company, Chicago, Illinois, for services in connection with the negotiation and consummation of the proposed issuance and sale of the Debentures, and related services; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 9th day of January, 1948, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance

with the Commission's rules of practice and procedure.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 47-11375; Filed, Dec. 26, 1947;
8:48 a. m.]

[Docket No. G-931]

EL PASO NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY

DECEMBER 23, 1947.

Notice is hereby given that, on December 22, 1947, the Federal Power Commission issued its order entered December 19, 1947, issuing certificate of public convenience and necessity, in the above-designated matter.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 47-11376; Filed, Dec. 26, 1947;
8:48 a. m.]

[Docket No. G-977]

HOPE NATURAL GAS CO.

NOTICE OF APPLICATION

DECEMBER 22, 1947.

Notice is hereby given that on November 28, 1947, an application, and on December 10, 1947 exhibits in connection therewith, were filed with the Federal Power Commission by Hope Natural Gas Company (Applicant), a West Virginia Corporation, with its principal place of business at Clarksburg, West Virginia, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing Applicant to construct and operate certain additional natural gas transmission facilities, described in the application as follows:

(a) *Additions to Cornwell Compressor Stations.* Three 1,000 horsepower gas engine-driven compressor units, together with auxiliary equipment and buildings.

(b) *Completion of Loop Line TD 264.* Approximately 26 miles of 14-inch loop line will be installed to complete the looping of the 90-mile high pressure line H-192 all the way from Cornwell Station to Hastings Station. As a result of the authorizations in Docket Nos. G-696 and G-803, approximately 64 miles of this looping are now installed.

Applicant estimates the over-all capital cost of the above described facilities will be approximately \$1,480,000, of which \$880,000 is estimated for the loop line and \$600,000 for the compressor station additions. It states the capital cost of the proposed facilities will be financed either from cash on hand or from the sale of additional securities to applicant's parent company, Consolidated Natural Gas Company. In connection with the proposed facilities, applicant estimates its total additional operating expenses, exclusive of depreciation, taxes and return, will approximate \$71,800 per annum.

In the application it is stated that the facilities, proposed to be constructed in 1948, will constitute additions to applicant's existing natural gas system in the State of West Virginia, and are to be constructed and operated to enable applicant to increase to 200,000 Mcf per day the volumes of natural gas which applicant proposes to purchase from Tennessee Gas Transmission Company commencing upon completion by that company about the end of 1948 of the facilities authorized in Docket No. G-808.

The application states further that applicant is presently purchasing gas from Tennessee Gas Transmission Company (hereinafter referred to as Tennessee) under an agreement which was originally executed on October 25, 1943, and amended in its entirety on October 7, 1946, said agreement being Tennessee's Rate Schedules FPC Nos. 1 and 12, as supplemented. At the present time the total contract volume provided is 115,000 Mcf per day. Under the amendatory agreement, applicant states, the total contract quantity is to be increased to 165,000 Mcf per day as soon as Tennessee constructs certain facilities authorized by the Commission in its Opinion No. 155 and Order issued August 1, 1947, in Docket No. G-808. It further states that applicant has substantially completed the facilities authorized by the Commission in its order dated July 22, 1947, in Docket No. G-803, the facilities required by applicant for receiving from Tennessee and transporting 165,000 Mcf of natural gas per day.

The application further states that the said amended agreement between Applicant and Tennessee further provides that Tennessee shall proceed with the construction of facilities which will enable it to deliver a total contract quantity of 200,000 Mcf of natural gas per day to Applicant and that, on the completion of such facilities and the tender of deliveries of additional volumes of gas, Applicant has the option to purchase on a firm basis an additional 35,000 Mcf per day, for total contract quantity of 200,000 Mcf per day. On the basis of operations during 1947 and of operating estimates for the future, Applicant states it has now determined that it must firm up the total contract quantity of 200,000 Mcf per day, in other words, enter into a firm purchase agreement with Tennessee for the 35,000 Mcf per day of so-called option gas.¹ To this end Applicant states it has executed a supplement dated November 20, 1947, to the said agreement with Tennessee, to firm up the total contract quantity of 200,000 Mcf per day. It is not stated in the application whether the said supplement has been agreed to or executed by Tennessee.

The facilities proposed herein, it is asserted in the application, are required to receive and transport the added 35,000 Mcf per day expected by Applicant from increasing its purchase contract quantity

from Tennessee to 200,000 Mcf per day. Applicant also asserts that its estimated future requirements and those of the Consolidated Natural Gas System in the Appalachian area are expected to exceed their estimated natural gas requirements previously submitted to the Commission in Docket Nos. G-803, G-808, and G-880, due primarily to the steady increase in house heating demands in communities now served by the Consolidated system; that available supplies are expected to be materially below such requirements even with a full 200,000 Mcf per day from Texas Eastern Transmission Corporation, and all other sources being operated at their maximum; and that large deficiencies are in prospect.

Any interested State Commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Hope Natural Gas Company is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such protest or petition shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the Rules of practice and procedure (effective July 1, 1947) (18 CFR 1.8 or 1.10).

[SEAL]

J. H. GUTRIDE,
Acting Secretary.[F. R. Doc. 47-11374; Filed, Dec. 26, 1947;
8:48 a. m.]

[Project No. 16]

NIAGARA FALLS POWER CO.

NOTICE OF ORDER AUTHORIZING AMENDMENT
OF LICENSE (MAJOR)

DECEMBER 23, 1947.

Notice is hereby given that, on December 22, 1947, the Federal Power Commission issued its order entered December 19, 1947, authorizing amendment of license, in the above-designated matter.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.[F. R. Doc. 47-11377; Filed, Dec. 26, 1947;
8:48 a. m.]

[Docket No. G-969]

HOME GAS CO. ET AL.

ORDER FIXING DATE OF HEARING

In the matter of Home Gas Company, The Manufacturers Light and Heat Company, and Cumberland and Allegheny Gas Company; Docket No. G-969.

Upon consideration of the application filed November 14, 1947, by Home Gas Company, a New York corporation, The Manufacturers Light and Heat Company, a Pennsylvania corporation, and Cumberland and Allegheny Gas Company, a West Virginia corporation (Applicants), with their principal place of business at 800 Union Trust Building, Pittsburgh, Pennsylvania, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain additional natural gas facilities and for approval of the abandonment and retirement of certain natural gas facilities, subject to the jurisdiction of the Commission, as fully described in such application on file with the Commission and open to public inspection:

It appearing to the Commission that: This proceeding is a proper one for disposition under the provisions of Rule 32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure (as amended June 16, 1947), Applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on December 3, 1947 (12 F. R. 8047). The Commission, therefore, orders that:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure (as amended June 16, 1947), a hearing be held on December 30, 1947, at 9:30 a. m. (e. s. t.), in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of Rule 32 (b) of the Commission's rules of Practice and procedure (as amended June 16, 1947).

(B) Interested State commissions may participate as provided by Rules 8 and 37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Date of issuance: December 24, 1947.

By the Commission.

J. H. GUTRIDE,
Acting Secretary.[F. R. Doc. 47-11407; Filed, Dec. 26, 1947;
8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 394]

RECONSIGNMENT OF POTATOES AT
PHILADELPHIA, PA.

Pursuant to the authority vested in me by paragraph (f) of the first ordering

¹ The disposition to be made of the indicated 35,000 Mcf per day, it may be noted, is a part of those volumes of gas which the Commission reserved for further consideration in issuing, on August 1, 1947, a certificate to Tennessee by its Opinion No. 155 and order in Docket No. G-808.

paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Philadelphia, Pa., December 19, 1947, by Joe Schlanger & Son, of car CN 207391, potatoes, now on the PRR to North Philadelphia Freight Station.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 19th day of December 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-11373; Filed, Dec. 26, 1947;
8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

MINNESOTA SECURITIES CORP.

MEMORANDUM OPINION AND ORDER APPROVING ADMISSION OF MEMBER TO REGISTERED NATIONAL SECURITIES ASSOCIATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 11th day of December A. D. 1947.

In the matter of application of National Association of Securities Dealers, Inc., on behalf of Minnesota Securities Corporation for approval of its admission to membership in the National Association of Securities Dealers, Inc.

This is an application under section 15A of the Securities Exchange Act of 1934 of the National Association of Securities Dealers, Inc. ("NASD"), a registered national securities association, for approval of admission to its membership of Minnesota Securities Corporation, of Rochester and Mankato, Minnesota, a registered broker and dealer under section 15 (b) of the act.

By order of September 16, 1947, we issued notice of this application stating that any interested person might present his views or request a formal hearing; and that in the absence of such a request by any person having a bona fide interest in the proceeding the Commission would either set the matter down for hearing on its own motion or grant the application on the basis of the record without formal hearing. Such notice was served on the interested parties and published in the FEDERAL REGISTER. No person has appeared to object, or to

request a hearing. We think we can appropriately dispose of the matter on the basis of the record of the proceedings before the NASD and the representations made in the application.

Under section 15A (b) (4) of the act and section 2 of Article I of the NASD by-laws, no broker or dealer may be admitted to membership while it has an officer, director or employee who was "a cause" of the expulsion of any member for violation of the Association's rules prohibiting conduct inconsistent with just and equitable principles of trade, unless the Commission approves or directs such admission as appropriate in the public interest.

Alois G. Scheidel, the president of Minnesota Securities Corporation, was formerly a person in control of A. G. Scheidel & Co., which was expelled from the NASD in 1941 for conduct inconsistent with just and equitable principles of trade in violation of the NASD's rules of fair practice. It is clear that he was "a cause" of that firm's expulsion within the meaning of the act. Consequently the NASD may not admit Minnesota Securities Corporation to membership unless we approve such action as being in the public interest.¹

The NASD has held a hearing before its District Committee at which evidence was taken, and the matter was reviewed by the Board of Governors. The Board of Governors found that the violations of its rules of fair practice on the part of Scheidel and his former firm were largely of a technical nature; that Scheidel and his firm have been sufficiently penalized; and that the admission to membership of Minnesota Securities Corporation would be consonant with the purposes and policies of section 15A of the act.

We have reviewed the record of the NASD proceedings and the decision of the Board of Governors and have concluded that it is in the public interest to grant the application.

Accordingly, *it is ordered*, That the application of the National Association of Securities Dealers, Inc. for approval of admission to its membership of Minnesota Securities Corporation, of Rochester and Mankato, Minnesota, be and it hereby is approved.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 47-11360; Filed, Dec. 26, 1947;
8:46 a. m.]

¹ Scheidel has also made application to the NASD to become a registered representative of Minnesota Securities Corporation. Under the NASD by-laws Scheidel would be ineligible in this respect, since disqualifications applicable to registered representatives are the same as those applicable to members. However, our disposition of the instant application for admission of the employer corporation will also carry with it the effect of a ruling permitting Scheidel to become a registered representative. See National Association of Securities Dealers, Inc., --- S. E. C. --- (1947), Securities Exchange Act Release No. 3955.

[File No. 16-1A20-1]

JOHN J. BELL

MEMORANDUM OPINION AND ORDER APPROVING CONTINUANCE OF MEMBERSHIP IN NATIONAL SECURITIES ASSOCIATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 11th day of December A. D. 1947.

In the matter of application of National Association of Securities Dealers, Inc., on behalf of a member firm for approval of the firm's continuance in membership in the association with John J. Bell as a controlled person; File No. 16-1A20-1.

This is an application under section 15A of the Securities Exchange Act of 1934 of the National Association of Securities Dealers, Inc. ("NASD"), a registered national securities association, for approval of continuance in its membership of a member firm (designated herein as John Doe & Co.) while employing John J. Bell.¹

By order of September 16, 1947, we issued public notice of this application stating that any interested person might present his views or request formal hearing; and that in the absence of such a request by a person having a bona fide interest in the proceeding the Commission would either set the matter down for hearing on its own motion or grant the application on the basis of the record and without formal hearing. Such notice was released to the press, served on the interested parties, and published in the FEDERAL REGISTER. No person has appeared to object or to request hearing. We think we can appropriately dispose of the matter on the basis of the record of the proceedings before the NASD and the representations made in the application.

Under section 15A (b) (4) of the act and section 2 of Article I of the NASD by-laws no broker or dealer may be continued in membership while it has an officer, director, or employee who was "a cause" of the expulsion of any member for violation of the Association's rules prohibiting conduct inconsistent with just and equitable principles of

¹ The identity of John Doe & Co. has been disclosed in a separate filing with the Commission, and the Association has requested confidential treatment thereof pursuant to section 24 (b) of the act and Rule X-24B-2. In National Association of Securities Dealers, Inc. (re Edward E. Trost), --- S. E. C. --- (1947, Securities Exchange Act Release No. 3955, we said (at mimeo p. 2):

... we have permitted the use of a procedure, under which the firm making the present application need not publicly disclose its identity. We have been advised that the publicity necessarily attendant upon a Commission proceeding has had the effect of discouraging NASD members from taking ... steps to obtain approval of the employment of persons who are otherwise disqualified but who with due regard for the public interest may be employed under appropriate supervision by an NASD member.

Accordingly, we think the Association's request for confidential treatment of the identity of the member firm may appropriately be, and it is hereby, granted.

trade, unless the Commission approves or directs such continuance in membership as appropriate in the public interest.

John J. Bell, a trader employed by John Doe & Co., was formerly a partner in W. F. Thompson & Co., which was expelled from the NASD in 1942 and fined \$1,200 for conduct inconsistent with just and equitable principles of trade in violation of the NASD's rules of fair practice. It is clear that Bell was "a cause" of the expulsion within the meaning of the act and of section 2, Article I of the NASD by-laws. Consequently, the NASD may not continue John Doe & Co. in membership while employing John J. Bell unless we approve or direct such action as being in the public interest.³

The NASD's application states that the District Committee and the Board of Governors of the Association have reviewed the proceedings leading to the expulsion of W. F. Thompson & Co.; have considered Bell's activities since that time together with his general reputation; have considered the fact that Bell has been employed by John Doe & Co. since March 1945 and that that firm represents that his trading activities are adequately supervised and that his conduct has been exemplary; and have concluded that continuance of John Doe & Co. in Association membership with Bell as an employee and registered representative would be consonant with the purposes and policies of section 15A of the act.

We have reviewed the record of the NASD proceedings and the decision of the Board of Governors and have concluded that it is in the public interest to grant the application.

Accordingly, it is ordered, That the application of the National Association of Securities Dealers, Inc., for approval of continuance in membership of its member firm while employing John J. Bell, be and it hereby is approved.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-11359; Filed, Dec. 26, 1947;
8:46 a. m.]

[File Nos. 54-66, 59-35, 59-61]

FEDERAL WATER AND GAS CORP. ET AL.

NOTICE OF FILING OF AMENDED PLAN AND
ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 18th day of December A. D. 1947.

³ Bell has made application to the NASD to become a registered representative of John Doe & Co. Under the NASD by-laws Bell would be ineligible since disqualifications applicable to registered representatives arising from violation of the rules of fair practice are the same as those applicable to members. However, our disposition of the instant application will have the effect of a ruling as to Bell's status as a registered representative. See National Association of Securities Dealers, Inc. (re Edward E. Trost), --- S. E. C. --- (1947), Securities Exchange Act Release No. 3955.

In the matter of Federal Water and Gas Corporation, and Subsidiary Companies, File No. 54-66; Federal Water and Gas Corporation, and Subsidiary Companies, Respondents, File No. 59-61; and New York Water Service Corporation, Federal Water and Gas Corporation, File No. 59-35.

I. On March 30, 1940, Federal Water Service Corporation, a registered holding company whose name has been changed in reorganization to Federal Water and Gas Corporation ("Federal"), filed a plan with this Commission, pursuant to section 7 of the Public Utility Holding Company Act of 1935, for its reorganization by merger with two other system companies. On March 24, 1941, the Commission disapproved the plan on the ground that the provision for participation of preferred stock purchased by the management of Federal ("Chenery, et al.") during the course of the reorganization proceeding was detrimental to the interests of investors and that, because of such provision, the plan was unfair and inequitable. Federal Water Service Corporation, et al., 8 S. E. C. 893. Upon amendment of the plan (also known as "Merger Agreement") by the company to provide, inter alia, that such preferred stock held by Chenery, et al., be surrendered for cost plus 4% interest from the dates of purchase to October 31, 1941 (the effective date of the plan) the Commission, on September 24, 1941, entered an order approving the plan as amended (Federal Water Service Corporation, et al., 10 S. E. C. 200). The proposed reorganization, merger, and change of name were effected in October 1941. On appeal by Chenery, et al. the United States Court of Appeals for the District of Columbia reversed the Commission's order of September 24, 1941, in respect of the proposed treatment of the preferred stockholdings of Chenery, et al. (Chenery Corporation, et al., v. S. E. C., 128 F. 2d 303 (1942)). On certiorari, the United States Supreme Court modified the Court of Appeals' decision, and remanded the case to that Court and to the Commission for further proceedings not inconsistent with the Supreme Court's decision (S. E. C. v. Chenery Corporation, et al., 318 U. S. 80 (1943)). After further proceedings, on February 7, 1945, the Commission entered its findings, opinion, and order, which (1) reapproved, as of September 24, 1941, the reorganization plan of Federal providing, inter alia, that the preferred stock of Federal Water Service Corporation purchased by Chenery, et al., should be surrendered to Federal for retirement at cost plus 4% interest from the dates of purchase to the effective date of the plan; and (2) denied the application of Federal, joined in by Chenery, et al., to amend the plan to accord parity treatment to such preferred stock (Holding Company Act Release No. 5584). Upon petition for review, the Court of Appeals, on February 4, 1946, reversed the Commission's order of February 7, 1945 (Chenery Corporation, et al., v. S. E. C. 154 F. 2d 6 (1946)). On certiorari, the Supreme Court on June 23, 1947 reversed the decision of the Court of Appeals (S. E. C. v. Chenery Corporation, et al., --- U. S. --- (1947)). On December 12, 1947, the

Court of Appeals, pursuant to the mandate of the United States Supreme Court, set aside and annulled its decision of February 4, 1946 and affirmed the order of the Commission dated February 7, 1945.

II. On December 31, 1942, Federal and certain of its subsidiary companies filed an application with this Commission pursuant to section 11 (e) of the act for approval of a plan ("the 1942 Plan") to effect compliance by Federal and its subsidiaries with the provisions of section 11 (b) of said act (File No. 54-66). On the same date a proceeding was instituted by the Commission involving Federal and its subsidiaries under sections 11 (b) (1), 11 (b) (2), 15 (f) and 20 (a) of said act (File No. 59-61), and was consolidated with the proceeding pertaining to Federal's 1942 Plan and with a proceeding theretofore instituted in respect of Federal and one of its subsidiaries (File No. 59-35).

On February 10, 1943, the Commission entered an order in these consolidated proceedings, in which it required, pursuant to sections 11 (b) (1) and 11 (b) (2) of the act, the divestment by Federal of its interests in certain designated subsidiaries and certain designated properties, the recapitalization of certain designated subsidiaries so as to redistribute voting power fairly and equitably among their security holders, and the elimination of certain other unnecessary subsidiary companies; and in addition, pursuant to section 11 (e) of the act, approved the 1942 Plan in so far as it related to the action ordered to be taken by Federal and its subsidiaries pursuant to sections 11 (b) (1) and 11 (b) (2) of the act. Jurisdiction was reserved by the Commission to consider all matters relating to these consolidated proceedings not disposed of by our order of February 10, 1943, including a proposal contained in said 1942 Plan regarding the elimination or dissolution of Federal, and to take such additional and further action as might be found to be appropriate in connection, among other things, with the disposition of securities or assets by Federal.

III. Notice is hereby given that Federal has filed, pursuant to section 11 (e) and other applicable provisions of the act, an Amended Plan amending the 1942 Plan, proposing the liquidation and dissolution of Federal and providing for the distribution of its assets to its security holders. All interested persons are referred to said Amended Plan, which is on file in the office of the Commission, for a full statement of the transactions therein proposed, which may be summarized as follows:

(1) Upon approval of the Amended Plan by the Commission and by an appropriate United States District Court, Federal proposes to file a certificate of dissolution pursuant to section 77 (a) of the Delaware Corporation Law. After the dissolution of Federal has become effective, Federal is, nevertheless, to be continued as a body corporate, pursuant to Section 42 of the Delaware Corporation Law, for the purpose of collecting its assets, settling its debts and liabilities, and distributing or otherwise disposing

of its assets to the persons entitled thereto.

(2) Federal proposes to pay its notes held by Guaranty Trust Company of New York and The Chase National Bank of the City of New York in the aggregate principal amount of \$500,000 and interest thereon and procure the release of 794,054½ shares of common stock of Scranton-Spring Brook Water Service Company ("Scranton") held by the said banks as collateral security for the notes.

(3) Federal states that it presently owns 765,022 shares of common stock of Southern Natural Gas Company ("Southern Natural"), 765,022 shares of common stock of Southern Production Company, Inc. ("Southern Production"), and 794,054½ shares of common stock of Scranton.

(4) Federal requests that the Commission determine whether it has jurisdiction to limit the claims of Chenery, et al., and proposes that if the Commission determines that it does have such jurisdiction and enters an order limiting the claims of Chenery, et al., with respect to shares of preferred stock of Federal Water Service Corporation purchased by them after November 8, 1937, and owned by them on October 31, 1941, to cost plus 4% interest computed to October 31, 1941 (an aggregate cash amount of \$313,190), and such order is approved by the United States District Court enforcing the Amended Plan and no proceeding to review such order is taken by Chenery, et al., within the time allowed therefor, it (Federal) will distribute to its stockholders for each share of common stock held 0.78 of a share of common stock of Southern Natural, 0.78 of a share of common stock of Southern Production, and 0.65 of a share of common stock of Scranton.

(5) Federal further states that if the claims of Chenery, et al., are not limited by the Commission and the United States District Court or if they are so limited and proceedings for the review of the order of the United States District Court approving the limitation are taken by Chenery, et al. in such event, Federal proposes the immediate distribution to its stockholders (other than Chenery, et al.) for each share of its common stock held, 0.78 of a share of common stock of Southern Natural, 0.78 of a share of common stock of Southern Production, and 0.5 of a share of common stock of Scranton.

(6) Federal proposes to accomplish the initial liquidation distribution in accordance with either paragraph (4) or (5) above, as the case may be, as follows:

(a) Federal will mail a letter to its stockholders of record at the close of business on the day when the certificate of dissolution is filed in the office of the Secretary of State of Delaware, requesting them to surrender their certificates of stock to The New York Trust Company for stamping, in order to receive the liquidating distribution of the shares of stock and scrip for fractional shares to which such stockholders are respectively entitled under this Amended Plan.

(b) The stamp to be placed upon the surrendered stock certificates of Federal will state, among other things, that a first liquidating distribution per share of

common stock of 0.78 of a share of common stock of Southern Natural, 0.78 of a share of common stock of Southern Production, and 0.65 or 0.5 of a share of common stock of Scranton, as the case may be, has been received.

(c) No transfers of unstamped certificates will be made upon the books of the corporation maintained by the Transfer Agent after the certificates of dissolution of Federal have been filed in the Office of the Secretary of State of Delaware.

(d) The distribution of the stocks of Southern Natural, Southern Production, and Scranton delivered to The New York Trust Company under the Amended Plan must be completed prior to the close of business on December 31, 1949. As soon as practical after December 31, 1940, any stock of Southern Natural, Southern Production, and Scranton which shall not have been delivered to stockholders or scrip holders will be sold at public or private sale by The New York Trust Company, transfer agent, after which the net proceeds of such sale, together with any dividends which have been paid on such undelivered stock, will be held for the benefit of holders of unstamped certificates of stock or unsundered scrip for fractional shares.

(e) No fractional shares of common stock of Southern Natural, Southern Production, or Scranton will be delivered but in lieu thereof separate scrip will be issued by The New York Trust Company evidencing fractional share interests of holders of such scrip in the stock of each of these companies. Such scrip will not be entitled to dividends, voting or other stockholder rights. When combined with other scrip aggregating one or more full shares of stock, scrip may at any time, on or before December 31, 1949, be exchanged for full shares together with any dividends which have been paid to The New York Trust Company as stockholder of record. The right of exchange of scrip for the stocks of Southern Natural, Southern Production, and Scranton will cease on December 31, 1949, after which date the holders of any scrip will be entitled to receive their proportionate interest in the cash proceeds of sale of such stock and in any dividends that have been received by The New York Trust Company as record holder of such stock.

(f) Holders of certificates of stock of Federal Water Service Corporation and Utility Operators Company (constituent companies which by merger in 1941 became the present Federal Water and Gas Corporation) who were authorized, pursuant to the merger agreement dated October 31, 1941, to exchange their stock for stock of Federal but have failed to present such certificates for exchange will be entitled to participate in the said initial distribution but only upon exchange of their outstanding certificates of stock of Federal Water Service Corporation and Utility Operators Company for Federal certificates of stock which will be appropriately stamped to evidence the receipt of the distribution.

(7) The shares of stock of Southern Natural and Southern Production which are retained by Federal from the initial distribution and, to the extent deemed advisable by Federal's board of directors, the retained shares of Scranton,

will be sold and the proceeds of sale added to the cash assets available to meet the liabilities of Federal. In the event it is finally adjudicated that the claims of Chenery, et al., against Federal are not limited to \$313,190, then the plan provides that the board of directors of Federal, subject to the approval of the Commission and the United States District Court enforcing the Amended Plan, may compromise and satisfy said claims in cash or in kind out of the retained assets of Federal.

(8) After satisfying or providing for the satisfaction of all liabilities of Federal, the remaining assets of Federal will be distributed to the stockholders of Federal in cash or in kind, or partly in cash and partly in kind, on surrender of their certificates of stock for cancellation.

(9) Federal proposes to pay all fees and expenses by whomsoever incurred in connection with the plan or the proceedings in respect thereof, to the extent approved by the Commission.

(10) Federal requests that any order of the Commission approving the Amended Plan shall contain the provisions and recitals necessary or appropriate to entitle the stockholders of Federal and Federal to the benefits of Supplement R, section 1808 (f) of the Internal Revenue Code and section 270-C of the Tax Law of the State of New York.

(11) The Commission is requested in the event it approves the Amended Plan to apply to an appropriate District Court of the United States for its enforcement.

It appearing to the Commission that it is appropriate in the public interest and in the interests of investors and consumers that hearings be reconvened in these consolidated proceedings with respect to said Amended Plan and the transactions proposed therein, and with respect to the issues under section 11 of the act as to which jurisdiction was reserved in our order of February 10, 1943, and that said Amended Plan should not be approved except pursuant to further order of the Commission:

It is ordered, That a hearing be held herein on January 20, 1948, at 10:00 a. m., e. s. t., at the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington, D. C. On that date, the hearing room clerk will advise as to the room in which the hearing will be held. Any person desiring to be heard or otherwise participate in the proceedings should file with the Secretary of the Commission on or before January 15, 1948, his application therefor, as provided in Rule XVII of the rules of practice of the Commission.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a Hearing Officer under the Commission's rules of practice.

The Public Utilities Division of the Commission having advised the Commission that it has made a preliminary examination of the filing, and that, upon the basis thereof, the following matters and questions are presented for consider-

ation without prejudice to its specifying additional matters or questions upon further examination:

(1) Whether, in the light of the Commission's Order of February 7, 1945, and its affirmance upon judicial review, any approval by the Commission of the Amended Plan should be conditioned upon the elimination therefrom of the provisions thereof set forth in paragraphs three (3), four (4) and five (5) of said Amended Plan and described in paragraphs four (4) and five (5) of Part III hereof (which provide for alternative distributions to Federal's common stockholders dependent upon the Commission's determination with respect to what limitations may or should be imposed in respect of the claims of Chenery, et al.); and whether in substitution therefor said Amended Plan should provide that the sum of \$313,190 be distributed or set aside in full satisfaction of the claims of Chenery, et al., and that the remaining assets of Federal (except such assets as may be required to satisfy claims other than those asserted by Chenery, et al.) be forthwith distributed to the common stockholders of Federal.

(2) Whether, in the light of the Commission's order of February 7, 1945, and its affirmance upon judicial review, provisions of the Amended Plan relating to the withholding from immediate distribution to the common stockholders of Federal, by reason of claims which may be asserted by Chenery, et al., of any of Federal's assets other than said amount of \$313,190, are necessary to effectuate the provisions of section 11 (b) and fair and equitable to the persons affected by the Amended Plan.

(3) Whether the Amended Plan filed herein, as submitted or as it may hereafter be modified, is in all other respects necessary to effectuate the provisions of section 11 (b) of the act.

(4) Whether the Amended Plan filed herein, as submitted or as it may hereafter be modified, is in all other respects fair and equitable to the persons affected thereby.

(5) Whether the Amended Plan includes appropriate provisions, in the circumstances of this case, for the prompt dissolution of Federal and for the immediate distribution of its assets among its security holders.

(6) Whether the Amended Plan includes appropriate provisions relating to the time within which the holders of the stock of Federal, Federal Water Service Corporation, and Utility Operators Company may surrender securities of such companies in exchange for the securities and cash proposed to be distributed under said Amended Plan.

(7) Whether this Amended Plan or a plan proposed by the Commission or by a qualified person in accordance with the provisions of section 11 (d) of the act should be approved, and, if proposed by the Commission, what the terms and provisions of such plan should be.

(8) Whether the Commission should enter an order, pursuant to section 11 (b), directing that Federal be liquidated and dissolved and what further action, if any, is required by Federal to effect complete compliance with section 11 (b) of the act.

(9) Whether the Amended Plan, as filed or as it may hereafter be modified, makes appropriate provision for the payment of expenses, fees, and remuneration in connection therewith, in what amounts such expenses, fees, and remuneration should be paid, and the fair and equitable allocation thereof.

(10) Whether the accounting entries in connection with the proposed transactions are in conformity with the standards of the Act and Rules promulgated thereunder.

(11) Generally, whether the proposed transactions are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the Act and the Rules thereunder, and, if not, what modifications should be required to be made therein and what terms and conditions should be imposed to satisfy the applicable statutory standards.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve notice of the filing of the Amended Plan and the procedure designated therein by mailing copies of this notice and order by registered mail to Federal, The New York Trust Company, Guaranty Trust Company of New York, and The Chase National Bank of the City of New York, and that notice to all others shall be given by publication of this notice and order in the FEDERAL REGISTER, and by a general release of the Commission distributed to the press and mailed to the mailing list for release issued under the Public Utility Holding Company Act of 1935.

It is further ordered, That Federal shall give notice of this hearing to all its security holders, as well as to the security holders of Federal Water Service Corporation and Utility Operators Company who have failed to effect the exchange of their stock for stock of Federal to which they are entitled, pursuant to the merger agreement of such companies effective October 31, 1941, by mailing to each of said persons at his or her last known address a copy of this notice and order at least 15 days prior to the date of the hearing herein ordered.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-11357; Filed, Dec. 26, 1947;
8:45 a. m.]

[File No. 70-1362]

SOUTH CAROLINA ELECTRIC & GAS CO. ET AL.

MEMORANDUM OPINION AND ORDER PERMITTING AMENDMENT TO DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pennsylvania, on the 19th day of December 1947.

In the matter of South Carolina Electric & Gas Company, General Gas & Electric Corporation, Associated Electric Company, General Public Utilities Corporation, File No. 70-1362.

By orders entered September 26, 1946 and October 31, 1946, this Commission approved a joint application-declaration, as amended, pursuant to the provisions of the Public Utility Holding Company Act of 1935, wherein, among other things, General Public Utilities Corporation ("GPU"), a registered holding company proposed to distribute to its stockholders its holdings of the common stock of South Carolina Electric & Gas Company ("South Carolina"), at that time an indirect subsidiary of GPU.¹ Such distribution was effected by means of a capital dividend on the basis of one share of the common stock of South Carolina for each ten shares of the common stock of GPU. In connection with such distribution of such stock the divestment of which had been directed by this Commission under the provisions of section 11 (b) (1) of the act,² it was recognized that a special situation existed with respect to the security holders of Associated Gas and Electric Company ("Ageco") and Associated Gas and Electric Corporation ("Agecorp"), who were entitled to receive the common stock of GPU pursuant to the plan of reorganization of those companies approved by this Commission pursuant to the provisions of section 11 (f) of the act and the United States District Court for the Southern District of New York pursuant to Chapter X of the Bankruptcy Act and who at that time had not surrendered their participating Ageco or Agecorp securities for exchange into the common stock of GPU. The distribution program, accordingly, provided that GPU would deposit with City Bank Farmers Trust Company, as escrow agent, the shares of stock of South Carolina which the participating security holders of Ageco or Agecorp would be entitled to receive upon surrender of their participating securities. At that time, in order that there might be no question that GPU would any longer be in a position to participate in the direction or management of the affairs of South Carolina or that GPU had complied with the section 11 (b) (1) divestment order, the escrow agreement provided that the escrow agent would not exercise any voting power, or grant any proxy with respect to any of the common stock of South Carolina held by the escrow agent.

GPU has now filed a post-effective amendment to the application-declaration, wherein it points out that it has been advised that such provision precluding the voting of the escrowed common stock might seriously hamper South Carolina in securing the affirmative vote of the holders of two-thirds of its outstanding common stock where such affirmative vote might be required by statute, the certificate of incorporation or the by-laws of the company. The post-effective amendment points out that at the close of business on October 31, 1947, the escrow agent held on deposit, for the purposes above mentioned, a total of 62,482.74 shares of the common

¹ South Carolina Electric & Gas Company et al., Holding Company Act Release Nos. 6915 and 6969.

² See Denis J. Driscoll and Willard L. Thorp, Trustees of Associated Gas and Electric Corporation, 11 S. E. C. 1115 (1942).

stock of South Carolina, which represents approximately 7.73% of the outstanding common stock. If such stock continues to be completely sterilized, it will be necessary to obtain the affirmative approval of the holders of approximately 72.25% of the remaining common stock of South Carolina. Accordingly, GPU seeks authority to amend the escrow agreement to provide that the escrow agent will not exercise any voting power, or grant a proxy with respect to any of the common stock held by it, except that, upon receiving written instruction from GPU so to do, it will vote or grant a proxy for the voting of such common stock provided such proxy is limited to voting only upon such propositions or matters which by statute, certificate of incorporation, or by-laws may be adopted only upon obtaining the affirmative vote of the holders of not less than two-thirds of the outstanding common stock of South Carolina.

As indicated, at the time when GPU distributed its holdings of the common stock of South Carolina, both GPU and this Commission were principally concerned with insuring that the escrowed common stock of South Carolina would not be held in such a fashion as to entitle GPU to vote such shares in the direction or management of the affairs of South Carolina. It appears that, at that time, no consideration was given to special circumstances such as here presented whereby the sterilization of such escrowed stock might seriously hamper South Carolina in effecting transactions which required the affirmative vote of the holders of two-thirds of its common stock. The proposed amendment to the escrow agreement would, as indicated, limit the voting by GPU of the escrowed shares to matters not connected with the direction or management of the affairs of South Carolina. So limited, the common stock of South Carolina held by the escrow agent will not constitute "voting securities" as defined by section 2 (a) (17) of the act, and, therefore, such common stock would not be deemed to be "voting securities" in determining whether GPU would become either a holding company, or an affiliate, of South Carolina as defined in sections 2 (a) (7) or 2 (a) (11) of the act. Accordingly, it appears that the proposed amendment will not defeat the original purpose of this aspect of the escrow agreement, and, *It is therefore ordered*, That said post-effective amendment be, and the same hereby is, approved and permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-11361; Filed, Dec. 26, 1947;
8:46 a. m.]

[File No. 70-1645]

MIDDLE WEST CORP. ET AL.

ORDER PERMITTING APPLICATIONS-DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 18th day of December A. D. 1947.

In the matter of The Middle West Corporation, Public Service Company of Oklahoma, Oklahoma Power and Water Co., Sand Springs Water Company, File No. 70-1645.

The Middle West Corporation, a registered holding company, Oklahoma Power and Water Co. and Sand Springs Water Company, public utility and non-utility subsidiaries, respectively, of The Middle West Corporation, and Public Service Company of Oklahoma, a public utility subsidiary of Central and South West Corporation, a registered holding company, have filed joint applications-declarations, and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935, and the applicable rules thereunder, with respect to the sale by The Middle West Corporation of all of the outstanding capital stock of Oklahoma Power and Water Co. to Public Service Company of Oklahoma and related transactions; and

A public hearing having been held in such matter and the Commission having considered the record and having made and filed its findings herein:

It is ordered, That said applications-declarations, as amended, be, and the same hereby are, granted and permitted to become effective forthwith, subject, however, to the terms and conditions prescribed in Rule U-24 of the General Rules and Regulations under the Public Utility Holding Company Act of 1935.

It is further ordered and recited, That the sale and transfer by The Middle West Corporation of 23,141 shares of the par value of \$100 each of common stock of Oklahoma Power and Water Co., a Delaware corporation, to Public Service Company of Oklahoma are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-11356; Filed, Dec. 26, 1947;
8:45 a. m.]

[File No. 70-1671]

CAMBRIDGE ELECTRIC LIGHT CO. ET AL.

ORDER GRANTING JOINT APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pennsylvania, on the 18th day of December 1947.

In the matter of Cambridge Electric Light Company, Cape & Vineyard Electric Company, New Bedford Gas and Edison Light Company, New Hampshire Gas and Electric Company, File No. 70-1671.

Cambridge Electric Light Company ("Cambridge"), Cape & Vineyard Electric Company ("Cape & Vineyard"), New Bedford Gas and Edison Light Company ("New Bedford"), and New Hampshire Gas and Electric Company ("New Hampshire"), each of which is a subsidiary of New England Gas and Electric Company ("New England"), a registered holding company, having filed a joint

application, as amended, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("act") with respect to the following transactions:

Each applicant proposes, from time to time, to issue and sell at principal amount its unsecured promissory note to The First National Bank of Boston ("Bank"). The proposed joint loan agreement to be entered into between the applicants and the Bank provides that at any time prior to December 31, 1949, upon three days' notice, the Bank will lend to each company aggregate amounts as follows:

Cambridge.....	\$2,848,000
Cape & Vineyard.....	950,000
New Bedford.....	6,250,000
New Hampshire.....	350,000

The proceeds of the notes will be used for additions and betterments of the property of each company except that (a) \$165,000 of the proceeds of \$950,000 to be received by Cape & Vineyard will be used to refund an existing bank debt in the same principal amount due December 30, 1947, and which bears interest at 2% per annum; and (b) \$1,750,000 of the \$6,250,000 to be received by New Bedford will be used to refund an existing bank debt in the same principal amount due January 3, 1950, and which bears interest at 2% per annum.

Each borrowing will be evidenced by a promissory note which will mature December 31, 1952. Notes issued in 1947 and 1948 will bear interest at the rate of 2½% per annum, and notes issued in 1948 will bear interest at the rate of 2½% per annum except that (a) notes issued by Cambridge on or before March 31, 1948 in an aggregate amount not in excess of \$1,750,000 will bear interest at 2% per annum, and (b) notes issued by New Bedford for the retirement of its existing bank debt of \$1,750,000 will bear interest at 2% per annum.

Such joint application, as amended, having been duly filed, and notices of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for hearing with respect to said joint application, as amended, within the period specified within said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that the requirements of the applicable provisions of the act are satisfied and deeming it appropriate in the public interest and in the interests of investors and consumers that the said joint application, as amended, be granted, and deeming it appropriate to grant the request of the company that the order become effective at the earliest date practicable:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed in Rule U-24, that the joint application, as amended, be, and the same hereby is, granted and the proposed transactions may be consummated forthwith.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-11359; Filed, Dec. 26, 1947;
8:46 a. m.]

[File No. 70-1688]

NARRAGANSETT ELECTRIC CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa. on the 18th day of December 1947.

The Narragansett Electric Company ("Narragansett"), a subsidiary of New England Electric System, a registered holding company, having filed a declaration and an amendment thereto, pursuant to section 7 of the Public Utility Holding Company Act of 1935, with respect to the transaction summarized below:

Narragansett proposes from time to time, (but in any case within one year from the effective date of its declaration) to borrow from one or more commercial banks or trust companies named in said declaration an aggregate amount not to exceed \$6,500,000 to be evidenced by unsecured promissory notes with a maturity of not more than one year from their respective dates. Narragansett states in its declaration, as amended, that the proposed notes will bear interest, or be discounted, at the prevailing rate for such notes, but not to exceed an effective rate of interest of 1¾% per annum, and that the proceeds derived from said loans will be used to temporarily finance its construction program through May 31, 1948, and to retire its presently outstanding notes in the amount of \$3,000,000, which notes were discounted at the rate of 1½% per annum. The declaration further states that it is understood and agreed to by Narragansett that the authorization to borrow pursuant to this Order will not be effective after the effectuation of its anticipated permanent financing, which results in proceeds sufficient to retire all notes then issued and outstanding pursuant to this order. It is represented that the proposed borrowings are not subject to the jurisdiction of any State or Federal Commission other than this Commission, and that no fees, commissions or other remunerations are involved except with respect to incidental services in connection with the proposed borrowings, the cost of which is estimated not to exceed \$500.

Said declaration having been filed on November 24, 1947, and notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated under said act, and the Commission not having received a request for hearing with respect to said declaration within the period specified and not having ordered a hearing thereon; and

Narragansett having requested acceleration of the Commission's action on this declaration, as amended, and having requested that the Commission's order be issued prior to December 20, 1947, and that such order become effective forthwith; and the Commission deeming it appropriate to grant such request; and

The Commission finding with respect to said declaration, as amended, that the requirements of the applicable provisions of the act and the rules promulgated

thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of the act and subject to the provisions prescribed in Rule U-24, that the declaration, as amended, be, and the same hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-11355; Filed, Dec. 26, 1947;
8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9452, Amdt.]

GEORGE T. SATO

In re: Stock owned by and debt owing to George T. Sato. F-39-4512-A-1.

Vesting Order 9452 dated July 13, 1947 is hereby amended as follows and not otherwise:

By deleting from subparagraph 2 (a) of said Vesting Order 9452, the phrase "evidenced by certificates registered in the name of and presently in the custody of E. F. Hutton and Co., 623 S. Spring Street, Los Angeles 14, California" and substituting therefor the following "evidenced by certificates registered in the name of Delafield & Delafield and presently in the custody of E. F. Hutton and Co., 623 S. Spring Street, Los Angeles 14, California".

All other provisions of said Vesting Order 9452 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C. on December 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11338; Filed, Dec. 24, 1947;
8:47 a. m.]

[Vesting Order 9853, Amdt.]

BERNARD BLUMENTHAL ET AL.

In re: Debts owing to Bernard Blumenthal and others.

Vesting Order 9853, dated September 17, 1947, is hereby amended as follows and not otherwise:

By deleting from subparagraph 1 of said Vesting Order 9853 the name and address "Albert Silverthau Germany".

All other provisions of said Vesting Order 9853 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on December 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11339; Filed, Dec. 26, 1947;
9:00 a. m.]

[Vesting Order 10191]

ANTON BROX

In re: Estate of Anton Brox, deceased. File D-28-11748 E. T. sec. 15940.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Max Brox, Helene Ottlinger and Hedwig Zarembowicz, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the estate of Anton Brox, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by William K. Brox, Administrator, acting under the judicial supervision of the Court of Probate of Rock Island County, State of Illinois; and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11381; Filed, Dec. 26, 1947;
8:59 a. m.]

[Vesting Order 10213]

CHRISTINA BAHNMILLER

In re: Estate of Christina Bahnmiller, deceased. File No. D-28-12044; E. T. sec. 16235.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Kuhn and Mina Kuhn Hinderer, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Christina Bahnmiller, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by the Treasurer of Washtenaw County, Michigan, as Depositary, acting under the judicial supervision of the Probate Court, Washtenaw County (Ann Arbor), Michigan:

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 25, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11382; Filed, Dec. 26, 1947;
8:59 a. m.]

[Vesting Order 10214]

IDA M. BECKER

In re: Estate of Ida M. Becker, deceased. File D-28-12036; E. T. sec. 16207.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Amelia Hillman and Marie Becker, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the sum of \$200.00 was paid to the Attorney General of the United States by Minnie I. O'Conner, Executrix of the estate of Ida M. Becker, deceased;

3. That the said sum of \$200.00 was accepted by the Attorney General of the United States on September 25, 1947, pursuant to the Trading with the Enemy Act, as amended;

4. That the said sum of \$200.00 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 25, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11383; Filed, Dec. 26, 1947;
8:59 a. m.]

[Vesting Order 10215]

LAURA BULTMAN BISHOP ET AL.

In re: Laura Bultman Bishop vs. Tillie Bultman Remke, et al. File No. D-28-11189; E. T. sec. 15585.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Dora Sulewski, Adolph Bultman and Dorette Nagel, whose last known addresses are Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the sum of \$413.43 was paid to the Attorney General of the United States by A. J. Scott, Referee in the above entitled partition suit;

3. That the said sum of \$413.43 is presently in the possession of the Attorney General of the United States and was

property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property in the Attorney General of the United States by acceptance thereof on June 6, 1947, pursuant to the Trading with the Enemy Act, as amended.

The terms "nationals" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 25, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11384; Filed, Dec. 26, 1947;
8:59 a. m.]

[Vesting Order 10292]

OTTO AND LOUISE BALZER

In re: Bank account owned by Otto Balzer and Louise Balzer. F-28-2095-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Otto Balzer and Louise Balzer, whose last known addresses are Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows:

That certain debt or other obligation of The First National Bank of Chicago, Dearborn, Monroe and Clark Streets, Chicago, Illinois, arising out of a savings account, account number 732,612, entitled Louise or Otto Balzer or John J. Krause, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence

of ownership or control by, Otto Balzer and Louise Balzer, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 9, 1947:

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11333; Filed, Dec. 24, 1947;
8:46 a. m.]

[Vesting Order 10296]

CLEMENS BURKE

In re: Bank account owned by Clemens Burke. F-28-7077-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Clemens Burke, whose last known address is c/o August Brier, Barkhorn by Loringen, Oldenburg, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

That certain debt or other obligation owing to Clemens Burke by The Clark Street Loan and Building Company, 1317 Main Street, Cincinnati 10, Ohio, arising out of a running stock account, Account No. 89, entitled Clemens Burke, maintained with the aforesaid company, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11334; Filed, Dec. 24, 1947;
8:46 a. m.]

[Vesting Order 10297]

CHIYODAGUMI LTD.

In re: Debt owing to Chiyodagumi Ltd. F-39-282, F-39-282-C-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Chiyodagumi Ltd., the last known address of which is 804 Teikoku Seimei Kan, Marunouchi, Tokyo, Japan, is a corporation, partnership, association or other business organization, organized under the laws of Japan, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Japan and is a national of a designated enemy country (Japan);

2. That the property described as follows:

That certain debt or other obligation owing to Chiyodagumi Ltd., by Freedom-Valvoline Oil Company, Lock Box G, Freedom, Pennsylvania (formerly Valvoline Oil Company, 405 Lexington Avenue, New York, New York), in the amount of \$1,107.63, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11335; Filed, Dec. 24, 1947;
8:46 a. m.]

[Return Order 69]

DIEDRICH AND ANNA BURGDOFF

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses;

Claimant and Claim Number; Notice of Intention to Return Published, and Property

Diedrich and Anna Burgdoff, Mastic Beach, Long Island, N. Y.; Claim No. 6068; November 6, 1947 (12 F. R. 7279); \$8,834.26 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on December 18, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11339; Filed, Dec. 24, 1947;
8:47 a. m.]

[Return Order 70]

LAURA GRUENEBaum-OPPENHEIM

Having considered the claim set forth below and having issued a Determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the Determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant to and Claim Number; Notice of Intention to Return Published and Property

Laura Gruenebaum-Oppenheim, New York, N. Y., Claim No. 5472; November 15, 1947 (12 F. R. 7650); \$7,802.65 in the Treasury of the United States. All right, title, interest and claim of any character whatsoever of Laura Gruenebaum-Oppenheim, in and to the trust created under Article IX of the will of Moritz Bamberger, deceased; Trus-

tee, Walker Bank & Trust Company, Salt Lake City, Utah.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on December 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11340; Filed, Dec. 24, 1947;
8:47 a. m.]

CONSOLIDATED AMUSEMENT CO. LTD.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the claimed property described below including the right to all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant	Claim No.	Property																																																																																																										
Consolidated Amusement Co., Ltd., Hawaii Theater Bldg., Post Office Box 3737, Honolulu, T. H.	6357	46 Japanese films, together with exclusive exhibition rights in Hawaii and United States, located in Washington, D. C., and in New York, N. Y., identified as follows:																																																																																																										
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Executed at Washington, D. C., on December 18, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11341; Filed, Dec. 24, 1947;
8:47 a. m.]

[Vesting Order 10303]

IDA KOPF

In re: Bank account owned by Ida Kopf. F-28-28582-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ida Kopf, whose last known address is Dinglingen-Lahr Alte Strasse 20, Germany 17 a., is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

That certain debt or other obligation owing to Ida Kopf by Central Savings Bank in the City of New York, 4th Avenue at 14th Street, New York, New York, arising out of a savings account, Account No. 1,063,205, entitled Ida Kopf maintained at the aforesaid bank and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-11386; Filed, Dec. 26, 1947;
8:59 a. m.]